MONTANA LEGISLATIVE HISTORY

Chapter 409 1999

Bill H _____ S 113 Original bill & history ✓ C

H. Committee on Bus + Labor			S. Committee on Highways & Transportation		
Hearing Date(s)	_____	___ C	Hearing Date(s)	_____	___ C
	3/4	✓ C		_____	___ C
	_____	___ C		1/26	✓ C
	_____	___ C		_____	___ C
Date Out	3/10	✓ C	out	1/28	✓

Conference Committee: 3-17 no minutes available

Did this bill originate in an interim committee? ___ Yes ___ No

Committee _____ Report _____

LEGISLATIVE HISTORIES

The 1997 Montana Legislature dramatically changed the nature of legislative minutes. This altered format continues with the 1999 legislative minutes. The minutes from House committees are extremely sparse in content, offering no substantive information from which to glean legislative intent. The Senate committees' minutes are fuller in content.

Exhibits, which include written statements, attendent information, roll call votes, roll call attendance, a list of those from the public who were present, and specific action taken on legislative bills, will be available only through the Historical Society Archives, 444-4774, and from a CD-ROM produced by the Legislative Services Division, 444-3064.

Just as in the 1997 legislative session, the 1999 House and Senate committee hearings were recorded. For information on accessing the tapes, or purchasing them, contact the Archives, 444-4774.

If you have concerns over the format of these legislative minutes, it is suggested that you contact your state legislators.

SB 112 Introduced by Franklin *LC0398 Drafter: MacMaster*

Define "Fingerprints" for Purposes of the Criminal Justice Information Act;...

By Request of Department of Justice

12/22	Introduced		
1/04	1st Reading		
1/04	Referred to Judiciary		
1/07	Hearing		
1/15	Committee Executive Action--Bill Passed	6	0
1/16	Committee Report--Bill Passed		
1/19	2nd Reading Passed	48	0
1/20	3rd Reading Passed	50	0
	Transmitted to House		
2/16	Referred to Judiciary		
3/04	Hearing		
3/08	Committee Executive Action--Bill Concurred as Amended	19	1
3/09	Committee Report--Bill Concurred as Amended		
3/12	2nd Reading Concurred	99	0
3/13	3rd Reading Concurred	100	0
	Returned to Senate with Amendments		
3/16	2nd Reading House Amendments Concurred	49	0
3/17	3rd Reading Passed as Amended by House	49	0
3/17	Sent to Enrolling		
3/18	Returned from Enrolling		
3/19	Signed by President		
3/20	Signed by Speaker		
3/22	Transmitted to Governor		
3/23	Signed by Governor		
3/24	Chapter Number Assigned		
	Chapter Number 147		
	Effective Date: 3/23/1999 - All Sections		

SB 113 Introduced by Mahlum *LC0404 Drafter: B. Campbell*

Generally Revise the Laws Governing the Licensing of Dealers and Wholesalers of Motor Vehicles, Recreational Vehicles, Motorcycles, Quadricycles, Trailers, and Special Mobile Equipment by the Department of Justice;...

By Request of Department of Justice

12/22	Introduced		
1/04	1st Reading		
1/04	Referred to Highways and Transportation		
1/26	Hearing		
1/29	Committee Executive Action--Bill Passed as Amended	10	1
1/30	Committee Report--Bill Passed as Amended		
2/01	2nd Reading Passed	42	7
2/02	3rd Reading Passed	43	7
	Transmitted to House		
2/16	Referred to Business and Labor		
3/04	Hearing		
3/11	Committee Executive Action--Bill Concurred as Amended	17	0
3/11	Committee Report--Bill Concurred as Amended		

3/13	2nd Reading Concurred as Amended	81	14
3/16	3rd Reading Concurred	84	14
	Returned to Senate with Amendments		
3/17	2nd Reading House Amendments Not Concurred	49	0
3/17	Conference Committee Appointed		
3/19	Hearing		
3/19	Conference Committee Report Received		
3/22	2nd Reading Conference Committee Report Adopted	45	4
3/23	3rd Reading Conference Committee Report Adopted	47	1
	House		
3/17	Conference Committee Appointed		
3/19	Conference Committee Report Received		
4/09	2nd Reading Conference Committee Report Adopted	69	27
4/10	3rd Reading Conference Committee Report Adopted	87	11
4/14	Sent to Enrolling		
4/16	Returned from Enrolling		
4/19	Signed by President		
4/20	Signed by Speaker		
4/20	Transmitted to Governor		
4/21	Signed by Governor		
4/22	Chapter Number Assigned		
	Chapter Number 409		
	Effective Date: 4/21/1999 - Sections 4 and 32-34		
	Effective Date: 10/01/1999 - Sections 1-3 and 5-31		

SB 114 Introduced by F. Thomas *LC0228 Drafter: Niss*

Require the Department of Public Health and Human Services to Purchase Workers' Compensation Coverage for an Individual Participating at a Work Site in Employment Training for the Purposes of the Families Achieving Independence in Montana (FAIM) Project;...

By Request of Department of Public Health and Human Services

12/23	Introduced		
1/04	1st Reading		
1/04	Referred to Public Health, Welfare and Safety		
1/04	Fiscal Note Requested		
1/08	Fiscal Note Received		
1/11	Fiscal Note Signed		
1/11	Fiscal Note Printed		
1/13	Hearing		
1/28	Committee Executive Action--Bill Passed as Amended	10	0
1/28	Committee Report--Bill Passed as Amended		
1/30	2nd Reading Passed	45	0
2/01	3rd Reading Passed	49	0
	Transmitted to House		
2/16	Referred to Business and Labor		
3/08	Hearing		
3/08	Committee Executive Action--Bill Concurred	17	0
3/09	Committee Report--Bill Concurred		
3/12	2nd Reading Concurred	87	13
3/13	3rd Reading Concurred	81	15

3

SENATE BILL NO. 113

INTRODUCED BY MAHLUM D

BY REQUEST OF THE DEPARTMENT OF JUSTICE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS GOVERNING THE LICENSING OF DEALERS AND WHOLESALERS OF MOTOR VEHICLES, RECREATIONAL VEHICLES, MOTORCYCLES, QUADRICYCLES, TRAILERS, AND SPECIAL MOBILE EQUIPMENT BY THE DEPARTMENT OF JUSTICE; DEFINING THE TERMS "NEW MOTOR VEHICLE", "ESTABLISHED PLACE OF BUSINESS", AND "RETAIL SALE"; AUTHORIZING COMPLIANCE SPECIALISTS DESIGNATED BY THE DEPARTMENT AND TRAINED AS PEACE OFFICERS TO ISSUE CITATIONS FOR VIOLATIONS OF DEALER LAWS AND CERTAIN VEHICLE TITLE AND REGISTRATION LAWS; REQUIRING DEALERS TO DISPLAY ON A SALES LOT NEW OR USED MOTOR VEHICLES BEARING EITHER A MONRONEY LABEL OR BUYER'S GUIDE LABEL AS APPROPRIATE; REQUIRING DEALERS TO INSTALL AND MAINTAIN NONCELLULAR TELEPHONE SERVICE AND TO POST WRITTEN NOTICE OF REGULAR AND CUSTOMARY BUSINESS HOURS AT THE DEALER'S ESTABLISHED PLACE OF BUSINESS; REQUIRING DEALERS AND WHOLESALERS TO FILE AND MAINTAIN PROOF OF GARAGE KEEPERS LIABILITY INSURANCE WITH THE DEPARTMENT; CLARIFYING THE DUTY OF AN APPLICANT FOR A DEALER'S LICENSE TO DISCLOSE FELONY OFFENSES FOR WHICH A DETERMINATION OF GUILT WAS MADE AND TO SUMMARIZE CONDUCT GIVING RISE TO THE CHARGE; REQUIRING DEALER'S LICENSE OR WHOLESALER'S LICENSE APPLICANTS TO PROVIDE CERTAIN INFORMATION ABOUT GARAGE KEEPERS LIABILITY COVERAGE OBTAINED BY THE APPLICANT; CONDITIONING USED MOTOR VEHICLE DEALER LICENSE RENEWAL ON A MINIMUM OF 18 RETAIL SALES OF USED MOTOR VEHICLES IN A PRIOR LICENSE TERM; RETAINING SEPARATE LICENSE RENEWAL REQUIREMENTS FOR A USED MOTOR VEHICLE DEALER WHO IS ALSO A QUALIFIED TOW TRUCK OPERATOR OR A LICENSED MOTOR VEHICLE WRECKING FACILITY; DENYING LICENSE RENEWAL TO USED MOTOR VEHICLE DEALERS WHO FAIL TO MEET MINIMUM RETAIL SALES REQUIREMENTS IN THE PRECEDING LICENSE YEAR AND WITHHOLDING DEALER LICENSE ELIGIBILITY FROM THOSE DEALERS FOR THE SUCCEEDING 12-MONTH PERIOD; CONDITIONING WHOLESALER'S LICENSE RENEWAL ON A MINIMUM OF 18 SALES OF VEHICLES OF THE TYPE AUTHORIZED UNDER THE LICENSE TO A LICENSED DEALER, AUTO AUCTION, OR ANOTHER WHOLESALER IN THE PRECEDING LICENSE YEAR; DENYING LICENSE RENEWAL TO WHOLESALERS WHO FAIL TO MEET MINIMUM SALES

REQUIREMENTS IN THE PRECEDING LICENSE YEAR AND WITHHOLDING WHOLESALER LICENSE ELIGIBILITY FROM THOSE WHOLESALERS FOR THE SUCCEEDING 12-MONTH PERIOD; CLARIFYING THE DEFINITION OF DEALER TO INCLUDE THE BUSINESS OF ACCEPTING VEHICLES ON CONSIGNMENT AND OTHERWISE BUYING, SELLING, EXCHANGING, OR ACTING AS A BROKER OF VEHICLES NOT TITLED AND REGISTERED IN THE DEALER'S NAME; EXTENDING ABATEMENT OF VEHICLE TAXES ON PROPERLY REPORTED DEALER INVENTORY TO TRANSFERS TO OR FROM OTHER MONTANA-LICENSED DEALERS, WHOLESALERS, OR AUTO AUCTIONS PRIOR TO RETAIL SALE; CODIFYING THE CURRENT FEE CHARGED FOR DEMONSTRATOR PLATES; AMENDING SECTIONS 20-7-514, 61-1-132, 61-1-314, 61-3-101, 61-3-103, 61-3-206, 61-3-301, 61-3-432, 61-3-501, 61-3-502, 61-3-508, 61-3-602, 61-4-101, 61-4-102, 61-4-104, 61-4-105, 61-4-107, 61-4-108, 61-4-120, 61-4-205, AND 61-10-214, MCA; REPEALING 61-4-103, MCA; AND PROVIDING EFFECTIVE DATES AND AN APPLICABILITY DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Established place of business.** (1) "Established place of business" means the geographic location upon which a permanent building is located that is actually occupied either continuously or at regular periods by a dealer. A building is actually occupied by a dealer if the dealer's books and records are kept in the building, and except for approved off-premises sales, the dealer's business is transacted within the building.

(2) A dealer's established place of business may also include the geographic location of one or more physical lots upon which vehicles are displayed for sale, as long as the requirements of 61-4-101(4)(d) regulating the distance between display lots and the recordkeeping building are met.

(3) The geographic location of the permanent building actually occupied by the dealer or the geographic location of the physical lots upon which vehicles are displayed for sale may be identified by street address, legal description, or other reasonably identifiable description, as prescribed by the department.

NEW SECTION. **Section 2. New motor vehicle.** "New motor vehicle" means a motor vehicle, regardless of the mileage of the vehicle, the legal or equitable title to which has never been transferred by a manufacturer, distributor, or dealer to another person as the result of a retail sale.

NEW SECTION. **Section 3. Retail sale.** (1) "Retail sale" means the sale of a new motor vehicle or used motor vehicle, a recreational vehicle, a trailer, a motorcycle, a quadricycle, or special mobile equipment by a dealer to a person for purposes other than resale.

(2) For purposes of chapter 4, part 1, of this title, "retail sale" does not mean a sale that is the result of a transfer between a dealer, wholesaler, or auto auction and another dealer, wholesaler, or auto auction.

NEW SECTION. **Section 4. Compliance specialists as peace officers.** (1) The department may designate and train civilian employees as compliance specialists within the motor vehicle division. Each compliance specialist is a peace officer whose jurisdiction is limited to enforcement of violations of Title 61, chapter 3, parts 1, 2, 3, 4, and 6 and chapter 4.

(2) As a peace officer, a trained compliance specialist may:

(a) issue citations and make arrests;

(b) issue summonses;

(c) accept bail;

(d) serve warrants of arrest;

(e) make reasonable inspections of a dealer's established place of business and vehicle inventory; and

(f) require production of documents relating to the sale, purchase, exchange, or consignment of any vehicle currently or previously in a dealer's inventory or displayed for sale by the dealer or relating to any obligation imposed on a dealer under this title.

(3) For purposes of this section, the term "dealer" includes a dealer of any vehicle type, a wholesaler, or an auto auction, subject to licensure by the department under this chapter.

NEW SECTION. **Section 5. Dealer requirements and restrictions.** (1) A dealer may not offer for sale, trade, or consignment any vehicle type not authorized by the license issued to the dealer by the department or use a dealer or demonstrator plate on a vehicle of a type for which the dealer is not licensed.

(2) A dealer may not exhibit at the dealer's established place of business or any approved

off-premises sale location, a vehicle for sale, trade, or consignment unless the Monroney label required for new motor vehicles pursuant to 15 U.S.C. 1232 or the buyers guide label required for used motor vehicles pursuant to 16 CFR, part 455, is affixed to the side window of the vehicle or is conspicuously displayed within the vehicle in a fashion that is readily readable by a customer.

(3) A dealer may not sell vehicles from a geographic location other than that of the dealer's established place of business as listed on the dealer's license unless the dealer notifies the department 10 days in advance, on a form prescribed by the department, of the opening date and location of an off-premises sale. Except for recreational vehicle dealers, an off-premises sale must be conducted within the city limits of the city of the dealer's licensed location or upon an adjacent off-premises site that is approved by the department and that is within the county of the dealer's licensed location. The sale may not exceed 10 consecutive business days, and a licensed dealer may not conduct more than 10 off-premises sales during any 1 calendar year.

(4) If more than one dealer displays vehicles and maintains an established place of business at the same geographic location, each dealer shall ensure that all vehicle records, office facilities, and inventory, if applicable, are physically segregated from those of the other dealer and clearly identified and attributed to the appropriate dealer.

(5) A dealer shall install and maintain noncellular telephone service at the dealer's established place of business.

(6) A dealer shall conspicuously post at the dealer's established place of business written notice indicating the regular and customary office hours maintained by the dealer.

(7) (a) A dealer shall file and maintain proof of insurance with the department. Proof of insurance may be furnished by filing with the department a written certificate of any insurance carrier duly authorized to do business in this state, certifying that there is in effect a garage keepers liability policy for the benefit of the dealer. The certificate must set forth the effective date of the policy, and that date must be the same as the effective date of the certificate.

(b) Once an insurance carrier has certified a garage keepers liability policy under this section, the policy may not be canceled or terminated unless written notice of the proposed cancellation or termination is filed with the department at least 10 days prior to the effective date of the proposed action.

(c) It is the responsibility of the dealer to ensure that a lapse in required garage keepers legal liability insurance does not occur as a result of cancellation or termination of a previously certified policy.

(d) This subsection does not relieve a dealer of the mandatory vehicle liability insurance obligation imposed under chapter 6 of this title.

(8) A dealer shall display at the dealer's established place of business at least one sign stating the name of the business and indicating that vehicles are offered for sale, trade, or consignment. The letters of the sign must be at least 6 inches in height and clearly visible and readable to the major avenue of traffic at a minimum distance of 150 feet.

NEW SECTION. **Section 6. License renewal -- fee -- dealer license suspension.** (1) On or before December 31 of each year, a dealer shall apply to the department for renewal of the dealer's license for an additional 1 year period.

(2) (a) To qualify for renewal, a dealer shall submit a completed application, in a form prescribed by the department, updating prior submitted information concerning owner identity, other ownership interest, felony conduct, garage keeper liability insurance, and surety bond filings, as originally required under 61-4-101, and providing any other relevant information requested by the department.

(b) The department may also require a renewal applicant to submit one or more current photographs of the dealer's established place of business or the signage for the business.

(c) If a dealer seeks to change the geographic location of the dealer's established place of business, the dealer shall also provide information concerning local land use planning, zoning, and business permitting compliance, if applicable, and a diagram or plat for the proposed location, consistent with the requirements of 61-4-101.

(3) A license renewal application must be accompanied by a $5 application fee and one or more of the following license fees, depending on the type of license renewal being sought:

(a) $25 for a new motor vehicle, used motor vehicle, new recreational vehicle, or used recreational vehicle dealer's license; and

(b) $45 for a motorcycle or trailer dealer's license.

(4) (a) Except as provided in subsections (4)(b) and (4)(c), a used motor vehicle dealer seeking license renewal shall also certify, under penalty of law, to the retail sale of 18 or more used motor vehicles during the expiring license term. A used motor vehicle dealer licensed for less than a full calendar year in the expiring license term shall certify, under penalty of law, to the retail sale of an average of at least 1 1/2 used motor vehicles a calendar month or portion of a calendar month, for which the expiring

license was in effect.

(b) The minimum retail sales requirements of this subsection do not apply to a dealer seeking to renew a used motor vehicle dealer's license and either a new motor vehicle dealer license or a new recreational vehicle dealer license.

(c) (i) To qualify for renewal, a used motor vehicle dealer who is also a qualified tow truck operator, as defined in 61-8-903, or a motor vehicle wrecking facility licensed under Title 75, chapter 10, part 5, shall certify, under penalty of law, to the retail sale of five or more used motor vehicles during the expiring license term.

(ii) If a used motor vehicle dealer also qualified as a tow truck operator loses the status of a qualified tow truck operator under 61-8-903, the dealer's license may be retained for the remainder of the license term, but after the current term, the dealer is subject to the retail sales requirements of subsection (4)(a).

(iii) If a used motor vehicle dealer also licensed as a motor vehicle wrecking facility ceases to do business as a wrecking facility and surrenders the wrecking facility license to the department of environmental quality, the dealer license may be retained for the remainder of the license term, but after the current term, the dealer is subject to the retail sales requirements of subsection (4)(a).

(d) A dealer who fails to meet the retail sales requirements for license renewal under this section is not eligible for license renewal and may not submit an application for another used motor vehicle dealer's license or a wholesaler's license for a period of 12 months from the expiration of the dealer's most recent license term.

(5) A dealer whose completed renewal application is received by the department on or before December 31 of the expiring license term may, if necessary, continue dealership operations and display or use dealer or demonstrator plates under the expired license through February 15 of the following year.

NEW SECTION. **Section 7. Wholesaler's license.** (1) (a) The department is authorized to issue a wholesaler's license to any person that it determines is qualified to hold a license under the provisions of this section.

(b) A wholesaler is authorized to sell used motor vehicles, used recreational vehicles, trailers, motorcycles, quadricycles, or special mobile equipment. However, a wholesaler may sell a vehicle only to a dealer, an auto auction, or another wholesaler. Retail sale of vehicles by a wholesaler is not allowed.

(c) A wholesaler's license issued by the department has a term of 1 calendar year, commencing on or after January 1 in the year of issue and expiring on December 31 of the same year.

(d) The department shall design and issue wholesaler demonstrator plates, of a similar sequence to demonstrator plates issued to dealers but that conspicuously display the term "wholesaler" or the abbreviation "W".

(2) To qualify for a wholesaler's license, an applicant shall submit a completed application, in a form prescribed by the department, that provides the following:

(a) the name under which the applicant intends to conduct business and the name, address, date of birth, and social security number of any person who possesses or will possess an ownership interest in the business for which the license is sought. If the applicant is a corporation, the personal information required in this subsection (2)(a) must be provided for each corporate officer and the person designated by the corporation to manage or oversee the dealership;

(b) for each person subject to the provisions of subsection (2)(a) whether the person has:

(i) an ownership interest in a vehicle dealership or wholesaler business in Montana or another jurisdiction and if so, the name and address of each dealership or wholesaler; and

(ii) been found guilty of, or pleaded guilty to, a felony in this or any other jurisdiction, and if so, provide a summary of the conduct giving rise to the felony charge, including the dates of the conduct and any judicial proceeding pertaining to the conduct, and the name and address of any court in which the matter was heard;

(c) the name, address, and telephone number of the insurance carrier from whom the applicant has acquired garage keepers liability insurance and the name, address, and telephone number of the local insurance agent for the carrier and the applicant's policy number. The insurance must cover any vehicle bearing a wholesaler demonstrator plate that is offered for demonstration or loan to, or otherwise operated by, a customer in the regular course of the applicant's business;

(d) the street address of the permanent nonresidential building or office where business records will be kept and available for inspection by the department; and

(e) a bond of $25,000 filed with the department on behalf of the applicant. The bond must be conditioned that the applicant shall conduct business in accordance with the requirements of the law. The bond must be approved by the department and subject to annual renewal.

(3) The application fee for a wholesaler's license is $5, and the license fee is $30. Both fees must

accompany an original or renewal wholesaler's license application.

(4) Wholesalers may not be issued or use dealer plates, as provided in 61-4-102. However, a wholesaler may be issued and is authorized to display and use a wholesaler demonstrator plate on any type of vehicle that a wholesaler is authorized to sell. The fee for a wholesaler demonstrator plate is $3. To the extent not inconsistent with this section, use of wholesaler demonstrator plates is otherwise governed by 61-4-103.

(5) (a) A wholesaler license must be renewed annually, and application for renewal must be filed on or before December 31 of the expiring license term.

(b) To qualify for renewal of a wholesaler's license, a wholesaler must submit a completed application, in a form prescribed by the department, updating prior submitted information, as originally supplied under subsection (2).

(c) Additionally, the wholesaler shall certify, under penalty of law, that 18 or more vehicles of the type authorized under the license were sold by the wholesaler to a dealer, auto auction, or another wholesaler during the expiring license term. A wholesaler who was licensed for less than a full calendar year in the expiring term shall certify, under penalty of law, to the sale of an average of at least 1 1/2 vehicles a calendar month, or portion of a calendar month, during which the expiring license was in effect.

(d) A wholesaler who fails to meet the sales requirements for license renewal under this section is not eligible for license renewal and may not submit an application for another wholesaler's license or a used motor vehicle dealer's license for a period of 12 months from the expiration of the wholesaler's most recent license term.

(6) A wholesaler whose completed renewal application has been received by the department on or before December 31 of the expiring license term may, if necessary, operate the business and display wholesaler demonstrator plates under the expired license through February 15 of the following year.

NEW SECTION. **Section 8. Claims against dealer, wholesaler, or auto auction bonds.** (1) A person who suffers loss or damage due to the unlawful conduct of a dealer, wholesaler, or auto auction licensed under this title shall obtain a judgment from a court of competent jurisdiction prior to collecting on the bond of the dealer, wholesaler, or auto auction. The judgment must set out a specific loss or damage amount and establish that the licensee's unlawful conduct caused the loss or damage, before payment on the bond is required.

(2) If claim is made on a bond by two or more persons who have obtained a judgment against a dealer, wholesaler, or auto auction based on the unlawful conduct of the dealer, wholesaler, or auto auction and the judgments in the aggregate exceed the amount of the bond, the proceeds of the bond must be divided between or among the claimants on a pro rata basis.

Section 9. Section 20-7-514, MCA, is amended to read:

"**20-7-514. Motorcycle registration fee -- exemptions.** (1) A motorcycle safety training fee of $5 must be assessed on each motorcycle required by 61-3-301 to be registered for licensing.

(2) The county treasurer shall collect the fee and remit the fee to the state treasurer for deposit in the state traffic education account, as provided in 20-7-504.

(3) Exempt from payment of the fee specified in subsection (1) are vehicles:

(a) leased or owned by the state or a county or municipality;

(b) used for transportation by a nonresident or migratory worker temporarily employed in agricultural work in this state; or

(c) displaying dealer or wholesaler plates, as provided in ~~61-4-103~~ 61-4-102 and [section 7], while owned by a dealer or wholesaler."

Section 10. Section 61-1-132, MCA, is amended to read:

"**61-1-132. Recreational vehicle.** The term "recreational vehicle" as used in ~~61-4-101 through 61-4-105~~ chapter 4, part1, of this title and 61-10-141 includes travel trailers as defined in 61-1-131, motor homes as defined in 61-1-130, and other self-propelled vehicles originally designed or permanently altered to provide temporary facilities for recreational, travel, or camping use."

Section 11. Section 61-1-314, MCA, is amended to read:

"**61-1-314. Dealer.** (1) "Dealer" means:

(a) a person, firm, association, or corporation that, for commission or profit, engages in whole or in part in the business of buying, selling, exchanging, accepting on consignment, or acting as a broker of ~~either~~ new motor vehicles or used motor vehicles~~, or both, and that qualifies for issuance of a dealer's license under 61-4-101 through 61-4-105~~ for which a certificate of ownership has not been issued and that are not registered in the name of the person, firm, association, or corporation and for whom a dealer

license is required under chapter 4 of this title;

(b) an owner of real property who allows more than three new or used motor vehicles not titled in the property owner's or the seller's name to be offered for sale on the property during 1 calendar year unless the property is leased to a motor vehicle dealer licensed under 61-4-101 and the vehicles offered for sale are bona fide units of the licensed dealer's inventory; or

(c) an owner of a motor vehicle that is offered for sale and is displayed on real property in which the motor vehicle owner does not have a legal interest, and the primary purpose for displaying the motor vehicle on the real property is to effect the sale of the motor vehicle.

(2) The term "dealer" does not include the following:

(a) receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under a judgment or order of any court of competent jurisdiction;

(b) employees of the persons included in subsection (2)(a) when engaged in the specific performance of their duties as employees;

(c) public officers while performing or in the operation of their duties;

(d) a motor vehicle owner who obtains the written consent of the real property owner, lessee, or agent of the owner or lessee on whose property the motor vehicle is displayed and who posts the written consent or a copy of the written consent in the front or rear window of the motor vehicle; or

(e) a person who attempts to effect a sale of the person's motor vehicle by displaying the motor vehicle on a public street or public area that abuts real property in which the person has a legal interest."

Section 12. Section 61-3-101, MCA, is amended to read:

"**61-3-101. Duties of department -- records.** (1) The department shall keep a record as specified in this section of all motor vehicles, trailers, and semitrailers of every kind, of certificates of registration and ownership of those vehicles, and of all manufacturers and dealers in motor vehicles.

(2) The record must show the ~~following~~:

(a) name of the owner, the residence address by street or rural route, town, and county, and the mailing address if different than the residence address;

(b) name and address of conditional sales vendor, mortgagee, or other lienholder and the amount due under contract or lien;

(c) manufacturer of the vehicle;

(d) manufacturer's designation of style of the vehicle;

(e) identifying number;

(f) year of manufacture;

(g) character of motive power and the shipping weight of the vehicle as shown by the manufacturer;

(h) distinctive license number assigned to the vehicle, if any;

(i) if a truck or trailer, the number of tons' capacity or GVW if imprinted on manufacturer's identification plate;

(j) except as provided in 61-3-103, the name and complete address of any holder of a perfected security interest in the vehicle; and

(k) other information that may from time to time be found desirable.

(3) The department shall file applications for registration received by it from county treasurers and register the vehicles and the vehicle owners as follows:

(a) under the distinctive license number assigned to the vehicle by the county treasurer;

(b) alphabetically under the name of the owner;

(c) numerically under make and identifying number of the vehicle; and

(d) under another index of registration as the department considers expedient.

(4) The department shall determine the amount of motor vehicle taxes and fees to be collected at the time of registration for each light vehicle subject to tax under 61-3-503 and for each bus, truck having a manufacturer's rated capacity of more than 1 ton, and truck tractor subject to a fee in lieu of tax under 61-3-528 and 61-3-529. The county treasurer shall collect the taxes and fees on each motor vehicle at the time of its registration.

(5) Vehicle registration records and indexes and driver's license records and indexes may be maintained by electronic recording and storage media.

(6) In the case of dealers, the records must show the information contained in the application for a dealer's, wholesaler's, or auto auction license as required by ~~61-4-101 through 61-4-105~~ chapter 4, parts 1 and 2 of this title, as well as the distinctive license number assigned to the dealer.

(7) In order to prevent an accumulation of unneeded records and files, regardless of any other statutory requirements, the department may destroy all records and files that relate to vehicles that have not been registered within the preceding 4 years and that do not have an active lien.

(8) All records must be open to inspection during reasonable business hours, and the department shall furnish any information from the records upon payment by the applicant of the cost of the information requested. Prior to providing the information, the department may require the applicant to provide identification. However, the department may, by rule, reasonably restrict disclosure of information on an owner or the owner's vehicle if the owner has requested in writing that the department not disclose the information."

Section 13. Section 61-3-103, MCA, is amended to read:

"**61-3-103. (Temporary) Filing of security interests -- perfection -- rights -- procedure -- fees.** (1) Except as provided in 61-3-109, the department may not file any voluntary security interest or lien unless it is accompanied by or specified in the application for a certificate of ownership of the vehicle encumbered. If the approved notice form is transmitted to the department, the security agreement or other lien instrument that creates the security interest must be retained by the secured party. A copy of the security agreement is sufficient as a lien notice if it contains the name and address of the debtor and the secured party, the complete vehicle description, and the amount of the lien and is signed by the debtor. The department shall file voluntary security interests and liens by entering the name and address of the secured party upon the face of the certificate of ownership. Involuntary liens must be filed against the record of the vehicle encumbered. The department shall mail a statement certifying to the filing of a security interest or lien to the secured party. The department shall mail the certificate of ownership to the owner at the address given on the certificate; however, if the transfer of ownership and filing of the security interest are paid for by a creditor or secured party, the department shall return the certificate of ownership to the county treasurer in the county in which the vehicle is to be registered. The owner of a motor vehicle is the person entitled to operate and possess the motor vehicle.

(2) A security interest in a motor vehicle held as inventory by a dealer licensed under ~~the provisions of 61-4-101~~ chapter 4 of this title must be perfected in accordance with Title 30, chapter 9.

(3) Whenever a security interest or lien is filed against a motor vehicle that is subject to two security interests previously perfected under this section, the department shall endorse on the face of the certificate of ownership, "NOTICE. This motor vehicle is subject to additional security interests on file with the Department of Justice." Other information regarding the additional security interests need not be endorsed on the certificate.

(4) Satisfactions or statements of release filed with the department under this chapter must be retained by it for a period of 8 years after receipt, after which they may be destroyed.

(5) Except as provided in 61-3-109 and subsection (6) of this section, a voluntary security interest or lien is perfected on the date that the lien notice and the certificate of ownership or manufacturer's statement of origin are delivered to the county treasurer. On that date, the county treasurer shall issue to the secured party a receipt evidencing the perfection. Perfection under this section constitutes constructive notice to subsequent purchasers or encumbrancers, from the date of delivery of the lien notice to the county treasurer, of the existence of the security interest.

(6) Except as provided in 61-3-109, voluntary security interests or lien filings that do not require transfer of ownership are perfected on the date that the lien notice and the certificate of ownership or manufacturer's statement of origin are received by the department. On that date, the department shall issue to the secured party a receipt evidencing the perfection. Perfection under this subsection constitutes constructive notice to subsequent purchasers or encumbrancers, from the date that the lien notice is delivered to the department, of the existence of the security interest.

(7) Upon default under a chattel mortgage or conditional sales contract covering a motor vehicle, the mortgagee or vendor has the same remedies as in the case of other personal property. In case of attachment of motor vehicles, all the provisions of 27-18-413, 27-18-414, and 27-18-804 are applicable except that deposits must be made with the department.

(8) A conditional sales vendor or chattel mortgagee or assignee who fails to file a satisfaction of a chattel mortgage, assignment, or conditional sales contract within 15 days after receiving final payment is required to pay the department the sum of $1 for each day that the person fails to file the satisfaction.

(9) Upon receipt of notice of any involuntary liens or attachments against the record of any motor vehicle registered in this state, the department shall within 24 hours mail to the owner, conditional sale vendor, mortgagees, or assignees of the owner, conditional sale vendor, or mortgagees a notice showing the name and address of the lien claimant, the amount of the lien, the date of execution of the lien, and, in the case of attachment, the full title of the court and the action and the names of the attorneys for the plaintiff and attaching creditor.

(10) It is not necessary to refile with the department any instruments on file in the offices of the county clerk and recorders at the time that this law takes effect.

(11) A fee of $4 must be paid to the department to file any security interest or other lien against

a motor vehicle. The $4 fee includes the cost of filing a satisfaction or release of the security interest and also the cost of entering the satisfaction or release on the records of the department and of deleting the endorsement of the security interest from the face of the certificate of ownership. A fee of $4 must be paid to the department for issuing a certified copy of a certificate of ownership subject to a security interest or other lien on file in the office of the department or for filing an assignment of any security interest or other lien on file with the department. All fees provided for in this section must be paid to the county treasurer for deposit in the state general fund in accordance with 15-1-504. (Terminates June 30, 2000--sec. 4, Ch. 90, L. 1997.)

61-3-103. (Effective July 1, 2000) Filing of security interests, perfection, rights, procedure, fees. (1) The department may not file any voluntary security interest or lien unless it is accompanied by or specified in the application for a certificate of ownership of the vehicle encumbered. If the approved notice form is transmitted to the department, the security agreement or other lien instrument that creates the security interest must be retained by the secured party. A copy of the security agreement is sufficient as a lien notice if it contains the name and address of the debtor and the secured party, the complete vehicle description, amount of lien, and is signed by the debtor. The department shall file voluntary security interests and liens by entering the name and address of the secured party upon the face of the certificate of ownership. Involuntary liens must be filed against the record of the vehicle encumbered. The department shall mail a statement certifying to the filing of a security interest or lien to the secured party. The department shall mail the certificate of ownership to the owner at the address given on the certificate; however, if the transfer of ownership and filing of the security interest are paid for by a creditor or secured party, the department shall return the certificate of ownership to the county treasurer where the vehicle is to be registered. The owner of a motor vehicle is the person entitled to operate and possess the motor vehicle.

(2) A security interest in a motor vehicle held as inventory by a dealer licensed under ~~the provisions of 61-4-101~~ chapter 4 of this title, must be perfected in accordance with Title 30, chapter 9.

(3) Whenever a security interest or lien is filed against a motor vehicle that is subject to two security interests previously perfected under this section, the department shall endorse on the face of the certificate of ownership, "NOTICE. This motor vehicle is subject to additional security interests on file with the Department of Justice." ~~No other~~ Other information regarding ~~such~~ the additional security interests need not be endorsed on the certificate.

(4) Satisfactions or statements of release filed with the department under this chapter must be retained by it for a period of 8 years after receipt, after which they may be destroyed.

(5) Except as provided in subsection (6), a voluntary security interest or lien is perfected on the date the lien notice and the certificate of ownership or manufacturer's statement of origin are delivered to the county treasurer. On that date, the county treasurer shall issue to the secured party a receipt evidencing the perfection. Perfection under this section constitutes constructive notice to subsequent purchasers or encumbrancers, from the date of delivery of the lien notice to the county treasurer, of the existence of the security interest.

(6) Voluntary security interests or lien filings that do not require transfer of ownership are perfected on the date the lien notice and the certificate of ownership or manufacturer's statement of origin are received by the department. On that date, the department shall issue to the secured party a receipt evidencing the perfection. Perfection under this subsection constitutes constructive notice to subsequent purchasers or encumbrancers, from the date the lien notice is delivered to the department, of the existence of the security interest.

(7) Upon default under a chattel mortgage or conditional sales contract covering a motor vehicle, the mortgagee or vendor has the same remedies as in the case of other personal property. In case of attachment of motor vehicles all the provisions of 27-18-413, 27-18-414, and 27-18-804 are applicable except that deposits must be made with the department.

(8) A conditional sales vendor or chattel mortgagee or assignee who fails to file a satisfaction of a chattel mortgage, assignment, or conditional sales contract within 15 days after receiving final payment is required to pay the department the sum of $1 for each day that the person fails to file such satisfaction.

(9) Upon receipt of notice of any involuntary liens or attachments against the record of any motor vehicle registered in this state, the department shall within 24 hours mail to the owner, conditional sale vendor, mortgagees, or assignees of any ~~thereof~~ owner, conditional sale under, or mortgagees a notice showing the name and address of the lien claimant, amount of the lien, date of execution of lien, and in the case of attachment the full title of the court and the action and the name of the attorneys for the plaintiff and attaching creditor.

(10) It is not necessary to refile with the department any instruments on file in the offices of the county clerk and recorders at the time this law takes effect.

(11) A fee of $4 must be paid to the department to file any security interest or other lien against a motor vehicle. The $4 fee ~~shall~~ must include and cover the cost of filing a satisfaction or release of the security interest and also the cost of entering ~~such~~ the satisfaction or release on the records of the department and deleting the endorsement of the security interest from the face of the certificate of ownership. A fee of $4 must be paid to the department for issuing a certified copy of a certificate of ownership subject to a security interest or other lien on file in the office of the department or for filing an assignment of any security interest or other lien on file with the department. All fees provided for in this section must be paid to the county treasurer for deposit in the state general fund in accordance with 15-1-504."

Section 14. Section 61-3-206, MCA, is amended to read:

"61-3-206. Odometer disclosure requirements on transfer of vehicle -- dealer to preserve record. (1) Except as provided in subsection (3), before executing any transfer of ownership document relating to a motor vehicle, each seller of a motor vehicle shall record on the certificate of ownership the odometer reading at the time of transfer or, if the certificate of ownership does not provide for the recording of the odometer reading, furnish to the purchaser a written statement that is signed by the seller, who shall also print ~~his~~ the seller's name on the written statement, and that contains the following information:

(a) the odometer reading at the time of transfer;

(b) the date of transfer;

(c) the seller's name and current address;

(d) the purchaser's name and current address;

(e) the vehicle year, make, model, body style, and identification number;

(f) one of the following statements or certification:

(i) a certification by the seller that, to the best of ~~his~~ the seller's knowledge, the odometer reading reflects the actual miles or kilometers the vehicle has been driven;

(ii) if the seller knows that the odometer reading reflects the amount of mileage in excess of the designed mechanical odometer limit of 99,999 miles or kilometers, ~~he~~ the seller shall include a statement to that effect; or

(iii) if the seller knows that the odometer reading differs from the number of miles or kilometers the vehicle has actually traveled and that the difference is greater than that caused by odometer

calibration error, ~~he~~ the seller shall include a statement that the odometer reading is not the actual mileage and should not be relied upon.

(2) The purchaser shall acknowledge receipt of the disclosure statement by signing it and printing ~~his~~ the purchaser's name on the disclosure statement.

(3) The seller of the following types of motor vehicles need not disclose the odometer reading of the vehicle as required in subsection (1):

(a) a motor vehicle that is 10 years old or older;

(b) a vehicle that is not self-propelled;

(c) a new motor vehicle transferred between dealers or wholesalers prior to its first retail sale, unless ~~such~~ the vehicle has been used as a demonstrator;

(d) a vehicle having a gross weight rating of more than 16,000 pounds; or

(e) a vehicle sold directly by the manufacturer to an agency of the United States.

(4) A dealer or wholesaler licensed under ~~61-4-101~~ chapter 4 of this title shall create a record of the information required in subsection (1) and shall maintain and preserve that record for at least 5 years after the date of sale of the motor vehicle to which the information pertains."

Section 15. Section 61-3-301, MCA, is amended to read:

"**61-3-301. Registration -- license plate required -- display.** (1) Except as otherwise provided in this chapter, ~~no~~ a person may not operate a motor vehicle upon the public highways of Montana unless the vehicle is properly registered and has the proper number plates conspicuously displayed, one on the front and one on the rear of the vehicle, each securely fastened to prevent it from swinging and unobstructed from plain view, except that ~~trailers, semitrailers, quadricycles, motorcycles, and~~ vehicles authorized ~~in 61-4-102(6)~~ to display demonstrator plates under 61-4-103 or [section 7] may have ~~but~~ only one number plate conspicuously displayed on the rear. ~~No~~ A person may not display on a vehicle at the same time a number assigned to it under any motor vehicle law except as provided in this chapter. A junk vehicle, as defined in Title 75, chapter 10, part 5, being driven or towed to an auto wrecking graveyard for disposal is exempt from the provisions of this section.

(2) ~~No~~ A person may not purchase or display on a vehicle a license plate bearing the number assigned to any county as provided in 61-3-332 other than the county of ~~his~~ the person's permanent residence at the time of application for registration. However, the owner of any motor vehicle requiring

a license plate on any motor vehicle used in the public transportation of persons or property may make application for the license in any county through which the motor vehicle passes in its regularly scheduled route, and the license plate issued bearing the number assigned to that county may be displayed on the motor vehicle in any other county of the state.

(3) It is unlawful to use license plates issued to one vehicle on any other vehicle, trailer, or semitrailer unless legally transferred as provided by statute, or to repaint old license plates to resemble current license plates.

(4) This section does not apply to a vehicle exempt from taxation under 15-6-215 or subject to taxation under 61-3-520.

(5) Any person violating these provisions is guilty of a misdemeanor and subject to the penalty prescribed in 61-3-601."

Section 16. Section 61-3-432, MCA, is amended to read:

"**61-3-432. Exemptions of vehicles not capable of operation on highways.** Track-type tractors, other track mounted machinery and equipment, road rollers, and other similar equipment and machinery which cannot be self-propelled or towed upon the highways of this state and which must be transported by some type of hauling unit, are not subject to this chapter, ~~61-4-101 through 61-4-106~~ chapter 4, part 1, chapter 6, ~~part 2 of~~ chapter 10, part 2, or ~~part 4 of~~ chapter 12, part 4."

Section 17. Section 61-3-501, MCA, is amended to read:

"**61-3-501. When vehicle taxes and fees are due.** (1) Motor vehicle taxes, fees in lieu of tax, new car taxes, and fees must be paid on the date of registration or reregistration of the vehicle.

(2)(a) If the anniversary date for reregistration of a vehicle passes while the vehicle is owned and held for sale by a licensed new or used car dealer, motor vehicle taxes or fees in lieu of tax abate on the vehicle properly reported with the county treasurer until the vehicle is ~~sold~~ the subject of a retail sale. After the sale, the purchaser shall pay the pro rata balance of the taxes or fees in lieu of tax due and owing on the vehicle.

(b) For the purposes of this subsection "retail sale" does not include a transfer between any of the following:

(i) a licensed new motor vehicle or used motor vehicle dealer;

(ii) another licensed new motor vehicle or used motor vehicle dealer;

(iii) a licensed wholesaler; or

(iv) a licensed auto auction.

(3) In the event that a vehicle's registration period is changed under 61-3-315, all taxes or fees in lieu of tax and other fees due must be prorated and paid from the last day of the old period until the first day of the new period in which the vehicle is registered. The taxes or fees in lieu of tax and other fees must be paid from the first day of the new period for a minimum period of 1 year. When the change is to a later registration period, taxes and fees must be prorated and paid based on the same tax year as the original registration period. Thereafter, during the appropriate anniversary registration period, each vehicle must again be registered or reregistered and all taxes and fees must be paid for a 12-month period."

Section 18. Section 61-3-502, MCA, is amended to read:

"**61-3-502. Sales tax on new motor vehicles -- exemptions.** (1) In consideration of the right to use the highways of the state, there is imposed a tax upon all sales of new motor vehicles, excluding trailers, semitrailers, and housetrailers, for which a license is sought and an original application for title is made. The tax must be paid by the purchaser when the purchaser applies for an original Montana license through the county treasurer. For purposes of this section, "new motor vehicle" means a new motor vehicle for which original registration is sought or a motor vehicle previously furnished without charge by a dealer to a school district for use in a state-approved traffic education program, whether or not ~~titled~~ the certificate of ownership is held by the dealer or the school district, and for which original registration is sought.

(2) Except as provided in subsections (4) and (5), the sales tax is:

(a) 1 1/2% of the f.o.b. factory list price or f.o.b. port-of-entry list price, during the first quarter of the year or for a registration period other than a calendar year or calendar quarter;

(b) 1 1/8% of the list price during the second quarter of the year;

(c) 3/4 of 1% during the third quarter of the year;

(d) 3/8 of 1% during the fourth quarter of the year.

(3) If the manufacturer or importer fails to furnish the f.o.b. factory list price or f.o.b. port-of-entry list price, the department may use published price lists.

(4) The new car sales tax on vehicles subject to the provisions of 61-3-313 through 61-3-316 is 1 1/2% of the f.o.b. factory list price or f.o.b. port-of-entry list price regardless of the month in which the new vehicle is purchased.

(5) The sales tax on new motor vehicles registered as part of a fleet under 61-3-318 is 3/4 of 1% of the f.o.b. factory list price or f.o.b. port-of-entry list price.

(6) The proceeds from this tax must be remitted to the state treasurer every 30 days. The state treasurer shall deposit $1 of the tax on each new motor vehicle in a special revenue account to be used by the department of commerce in carrying out its duties under Title 61, chapter 4, part 5, with the balance of the proceeds to be credited to the highway nonrestricted account of the state special revenue fund. The county treasurer shall retain 5% of the taxes collected to pay for the cost of administration.

(7) The new vehicle is not subject to any other assessment, fee in lieu of tax, or tax during the calendar year in which the original application for title is made.

(8) A new motor vehicle may not be registered or licensed unless the application for registration is accompanied by a statement of origin that is furnished by the dealer selling the vehicle and that shows that the vehicle has not previously been registered or owned, except as otherwise provided in this section, by any person, firm, corporation, or association other than a new motor vehicle dealer holding a franchise or distribution agreement from a new car manufacturer, distributor, or importer.

(9) (a) Motor vehicles operating exclusively for transportation of persons for hire within the limits of incorporated cities or towns and within 15 miles from the limits are exempt from the provisions of subsection (1).

(b) Motor vehicles brought or driven into Montana by nonresident, migratory, bona fide agricultural workers who are temporarily employed in agricultural work in this state, when those motor vehicles are used exclusively for transportation of agricultural workers, are also exempt from the provisions of subsection (1).

(c) Vehicles lawfully displaying a licensed dealer's plate as provided in ~~61-4-103~~ 61-4-102 are exempt from the provisions of subsection (1):

(i) when moving to or from a dealer's place of business when unloaded or loaded with dealer's property only; and

(ii) in the case of vehicles having a gross loaded weight of less than 24,000 pounds, while being demonstrated in the course of the dealer's business.

(d) Motor vehicles owned or controlled by a special district, as defined in 18-8-202, are exempt from subsection (1).

(e) A vehicle registered under 61-3-456 is exempt from the provisions of subsection (1)."

Section 19. Section 61-3-508, MCA, is amended to read:

"**61-3-508. Junk vehicle disposal fee.** A special junk vehicle disposal fee ~~shall~~ must be assessed on each new application for a motor vehicle title and on each transfer of a motor vehicle title in the amount of $1.50 on passenger cars and trucks under 8,001 pounds GVW. An additional special junk vehicle disposal fee ~~shall~~ must be assessed in the amount of 50 cents on each passenger car and truck under 8,001 pounds GVW registered for licensing. The fees ~~shall~~ must be collected by the county treasurer. However, the following are exempt from payment of the fees:

(1) vehicles leased or owned by the state or by a county or municipality;

(2) vehicles used for transportation by nonresident, migratory workers temporarily employed in agricultural work in this state;

(3) vehicles displaying dealer's or wholesaler's ~~license~~ plates~~, as provided in 61-4-103,~~ while owned by a dealer or wholesaler; and

(4) housetrailers or equipment ~~which~~ that is not self-propelled or ~~which~~ that requires towing upon a highway of this state."

Section 20. Section 61-3-602, MCA, is amended to read:

"**61-3-602. Enforcement.** It is mandatory upon all police and peace officers of the state, of the counties of the state, and of towns, cities, and villages to carry out the provisions of this chapter and ~~61-4-101 through 61-4-105~~ chapter 4, part 1."

Section 21. Section 61-4-101, MCA, is amended to read:

"**61-4-101. ~~Application for dealer's~~ Dealer's license ~~or wholesaler's license~~ -- types of licenses and terms -- plates -- bonds -- zoning.** ~~(1) (a) A verified application for licensure as a dealer or wholesaler must be filed, by mail or otherwise, in the office of the department by each person, firm, corporation, or association that, for commission or profit, engages in:~~

~~(i) the business of buying, selling, exchanging, taking for consignment, or acting as a broker of~~

24

~~new motor vehicles, recreational vehicles, used motor vehicles, trailers (except trailers having an unloaded weight of less than 500 pounds), semitrailers, mobile homes, or special mobile equipment as defined in 61-1-104; or~~

~~(ii) business as a wholesaler as defined in 61-1-319.~~

~~(b) A licensed real estate broker or agent lawfully buying, selling, exchanging, taking for consignment, or acting as a broker of mobile homes is exempt from licensure under this section.~~

~~(c) The sale of more than three motor vehicles or the offering for sale of more than three motor vehicles, if the motor vehicles are not titled in the seller's name, in any calendar year is prima facie evidence that a person is engaged in the business of dealing motor vehicles. Licensed wholesalers do not have the privilege of the use of dealer license plates as provided in subsection (2)(b) but are authorized to display and use demonstrator plates under the provisions of 61-4-102(2)(a)(ii).~~

~~(d) Each license application and all of the information contained in it must be verified by the department or an authorized representative of the department on a form to be furnished by the department for that purpose and must contain the information required. Each application must be accompanied by the license fee specified in 61-4-102. A dealer's or wholesaler's license must be renewed and paid for annually, and an application for relicensure must be filed not later than January 1 of each year. If an application for renewal of a license has been received by the department before the expiration of the license, the licensee may operate the business and display dealer or demonstrator plates under the expired license between January 1 and February 15 following expiration.~~

~~(2) To qualify for licensure and the issuance and use of "D", "UD", "RV", "DTR", or "MCD" plates as provided in this subsection, the applicant shall furnish the following information and qualify under the following provisions:~~

~~(a) To qualify as a new motor vehicle dealer and for the use of "D" plates, the applicant shall:~~

~~(i) state the name under which the business is to be conducted and the location of the premises (street address, city, county, and state) where records are kept, sales are made, and stock of motor vehicles is displayed;~~

~~(ii) state the name, address, date of birth, and social security number of all owners or persons having an interest in the business, provided that in the case of a corporation, the names and addresses of the president and secretary are sufficient;~~

~~(iii) identify other dealerships owned by the applicant, identify all persons in Montana or in another~~

~~state having an interest in another dealership owned by the applicant, and disclose whether the applicant or other person with interest in a dealership owned by the applicant has been convicted of a felony;~~

~~(iv) certify that the applicant has acquired and shall maintain motor vehicle liability insurance, pursuant to 61-6-301, for any vehicle offered for demonstration or loan to a customer;~~

~~(v) state the name and make of all motor vehicles handled and the name and address of the manufacturer, importer, or distributor with whom the applicant has a written new motor vehicle franchise or sales agreement;~~

~~(vi) execute a certificate to the effect that the applicant has a permanent building for the display and sale of new motor vehicles at the location of the premises where sales are conducted;~~

~~(vii) execute a certificate to the effect that the applicant has a bona fide service department for the repair, service, and maintenance of motor vehicles; and~~

~~(viii) execute a certificate to the effect that the applicant is a bona fide dealer in new motor vehicles and that the dealer is recognized by a manufacturer, importer, or distributor as a dealer in new motor vehicles.~~

~~(b) To qualify as a used motor vehicle dealer and for the use of "UD" plates; as a recreational vehicle dealer and for the use of "RV" plates; as a trailer, semitrailer, or special mobile equipment dealer and for the use of "DTR" plates; as a motorcycle or quadricycle dealer and for the use of "MCD" plates; or as a wholesaler and for the use of demonstrator plates, the applicant shall, in addition to the matters set forth in subsections (2)(a)(i) through (2)(a)(iv), provide:~~

~~(i) a statement that the:~~

~~(A) applicant has an established place of business consisting of one or more lots located within 200 feet of each other upon which motor vehicles may be displayed and a permanent nonresidential building on or within 1,000 feet of the lot or lots where records are kept and sales are made; or~~

~~(B) wholesaler applicant has an established place of business that includes a permanent nonresidential building or office where records are kept in order that those records may be inspected;~~

~~(ii) a certificate to the effect that the applicant is a bona fide dealer or wholesaler in used motor vehicles, recreational vehicles, trailers, semitrailers, special mobile equipment, motorcycles, or quadricycles. An applicant for a recreational vehicle dealer license shall also indicate on the same certificate that the person is recognized by a manufacturer, importer, or distributor as a dealer in recreational vehicles.~~

~~(c) If two or more vehicle dealers or wholesaler businesses share a location, all records, office facilities, and inventory, if applicable, must be physically segregated and clearly identified. Each applicant's established place of business may display a sign that indicates the firm name and that vehicles are offered for sale. The letters of the sign must be clearly visible and readable to the major avenue of traffic at a minimum distance of 150 feet.~~

~~(d) To qualify for a used motor vehicle dealer's or wholesaler's license, a person shall submit an annual application for that license and comply with the provisions of 61-4-102(5) in addition to fulfilling the requirements of subsection (2)(b).~~

~~(e) The provisions of subsection (2)(d) do not apply to an applicant who is licensed as a motor vehicle wrecking facility under the provisions of Title 75, chapter 10, part 5.~~

(1) Except as provided in [section 7], a person may not engage in the business of buying, selling, exchanging, accepting on consignment, or acting as a broker of a new motor vehicle or used motor vehicle, a new or used recreational vehicle, trailer, motorcycle, quadricycle, or special mobile equipment for which a certificate of ownership has not been issued and that are not registered in the person's name, unless the person is the holder of a dealer's license issued by the department under this part.

(2) (a) The department is authorized to issue a dealer's license for one or more specified vehicle types to any person that it determines is qualified to hold a license under the provisions of this section. A dealer's license may be issued for, and restricted to, one or more of the following vehicle types:

(i) new motor vehicle;

(ii) used motor vehicle;

(iii) new recreational vehicle;

(iv) used recreational vehicle;

(v) trailer of any size, or special mobile equipment; or

(vi) motorcycle or quadricycle.

(b) For each type of dealer license authorized, the department shall design and issue dealer and demonstrator plates as provided in 61-4-102 and [section 23].

(c) With the exception of a licensed new motor vehicle dealer, a dealer licensed for a particular type of vehicle may sell, trade, or accept upon consignment only vehicles of the type for which the license is authorized, unless the dealer's license specifically refers to more than one vehicle type, such as a motorcycle or quadricycle license. A new motor vehicle dealer is authorized to sell, trade, or accept upon

consignment new motor vehicles or used motor vehicles.

(d) Regardless of vehicle type, a dealer's license issued by the department has a term of 1 calendar year, commencing on or after January 1 in the year of issue and expiring on December 31 of the same year.

(3) (a) An applicant for a dealer's license shall submit a written application for a dealer's license to the department, specifying the type or types of dealer's license sought. The application must be signed by the applicant and contain a verification by the applicant, under penalty of law, that the information contained in the application is true and correct. Any information provided in the license application process is subject to independent verification by the department or a duly authorized representative of the department.

(b) After examining a license application and conducting investigation necessary to verify the information contained in the application and if the department is satisfied that the applicant qualifies for the issuance of a license under the provisions of this chapter, the department may issue the license. The department may refuse, after examination and investigation, to issue a license to an applicant who is not qualified for licensure or whose prior financial or other activities or criminal record, as determined by the department:

(i) pose a threat to the effective regulation of dealers, wholesalers, or auto auctions;

(ii) pose a threat to the public interest of the state; or

(iii) create a danger of illegal or deceptive practices being used in the conduct of the proposed dealership, wholesaler, or auto auction.

(4) To be qualified for licensure as a dealer, an applicant shall provide to the department the following:

(a) the name under which the applicant intends to conduct business and the name, address, date of birth, and social security number of any person who possesses or will possess an ownership interest in the business for which the license is sought. If the applicant is a corporation, the personal information required in this subsection (4)(a) must be provided for each corporate officer and the person designated by the corporation to manage or oversee the dealership;

(b) for each person subject to the provisions of subsection (4)(a), whether the person has:

(i) an ownership interest in a vehicle dealership or a wholesaler business in Montana or another jurisdiction and if so, the name and address of each dealership or wholesaler; and

(ii) been found guilty of, or pleaded guilty to, a felony in this or any other jurisdiction and if so, provide a summary of the conduct resulting in the felony charge, including the dates of the conduct and any court proceedings pertaining to the conduct and the name and address of any court in which the matter was heard;

(c) the name, address, and telephone number of the insurance carrier from whom the applicant has acquired garage keepers liability insurance and the name, address, and telephone number of the local insurance agent for the carrier and the applicant's policy number. The insurance must cover any vehicle bearing dealer or demonstrator license plates that is offered for demonstration or loan to, or otherwise operated by, a customer in the regular course of the applicant's business;

(d) the geographic location of the physical lot or lots upon which vehicles will be displayed for sale and a permanent nonresidential building will be maintained to store the actual physical or electronic records resulting from the purchase, sale, trade, or consignment of vehicles for which licensure is sought. An applicant may use more than one location to display vehicles for sale, provided the maximum distance between each display lot does not exceed 200 feet, and the distance between a display lot and the building in which vehicle sales records are stored does not exceed 1,000 feet;

(e) for each geographic location specified in the application, evidence of the applicant's compliance with applicable local land use planning, zoning, and business permitting requirements, if any. Evidence of compliance may be documented by means of a written verification of compliance signed by the authorized representative of the local land use planning or zoning board or the local business permitting agency;

(f) a diagram or plat showing the geographic location, lot dimensions, and building and sign placement for the applicant's proposed established place of business, along with two or more photographs of the geographic location, building premises, and sign, as prescribed by the department;

(g) a certification by the applicant that the applicant is a bona fide dealer in new motor vehicles, used motor vehicles, used recreational vehicles, trailers, motorcycles, quadricycles, or special mobile equipment;

(h) if the applicant is seeking a new motor vehicle dealer license:

(i) the name and address of the manufacturer, importer, or distributor with whom the applicant has a written new motor vehicle franchise or sales agreement and the name and make of all motor vehicles to be handled by the applicant;

(ii) the geographic location or locations, specified in writing, upon which the applicant will provide and maintain a permanent building to display and sell new motor vehicles and offer and maintain a bona fide service department for the repair, service, and maintenance of the motor vehicles; and

(iii) otherwise meet the requirements of part 2 of this chapter; and

(iv) if the applicant is applying for a new recreational vehicle dealer's license, certification that the person is recognized by a manufacturer, importer, or distributor as a dealer in new recreational vehicles.

(5) If an applicant for a new motor vehicle or used motor vehicle, new or used recreational vehicle, or trailer dealer's license wants to maintain more than one established place of business, the applicant shall file a separate license application for each proposed established place of business and otherwise qualify for licensure at each place separately.

(6) (a) Each application under this section must be accompanied by an application fee of $5 and one or more of the following license fees based on the type of dealer's license being sought:

(i) $25 for a new motor vehicle dealer's license;

(ii) $300 for a used motor vehicle dealer's license;

(iii) $30 for a new or used recreational vehicle dealer's license; or

(iv) $45 for a motorcycle or trailer dealer's license.

(b) If the application for a dealer's license is received by the department on or after July 1, the license fee provided in subsection (6)(a) must be reduced by one-half.

~~(3)(a)~~ (7) The applicant for a dealer's ~~or wholesaler's~~ license shall also file with the application a bond of $25,000 for a license as a new motor vehicle dealer, a used motor vehicle dealer, a new or used recreational vehicle dealer, or a trailer dealer~~, or a wholesaler~~. ~~However, applicants for a license as a trailer dealer or a trailer wholesaler shall file the $25,000 surety bond only if special mobile equipment, commercial trailers and semitrailers exceeding 6,000 pounds maximum gross loaded weight, mobile homes, or house trailers are sold. All other trailer dealer,~~ Applicants for a motorcycle ~~dealer, or wholesaler~~ dealer's license ~~applicants~~ shall file a bond in the sum of $10,000. All bonds must be conditioned that the applicant shall conduct the business in accordance with the requirements of the law. The bond may extend to any other type of dealer license issued to the applicant at the same ~~place of business~~ geographic location, provided that all types of licenses are indicated on the face of the bond. All bonds must ~~run to the state of Montana, must~~ be approved by the department, must be filed in its office, and

must be renewed annually.

~~(b) A person who suffers loss or damage due to the unlawful conduct of a dealer or wholesaler licensed under this section shall obtain a judgment from a court of competent jurisdiction prior to collecting on the bond. The judgment must determine a specific loss or damage amount and conclude that the licensee's unlawful operation caused the loss or damage before payment on the bond is required."~~

Section 22. Section 61-4-102, MCA, is amended to read:

"**61-4-102.** ~~**Fees -- restrictions on licensees**~~ **Dealer's license numbers -- assignment, numbering, and limitation of dealer plates -- restriction of use -- fees.** (1) Upon the licensing of a dealer, the department shall assign to the dealer a distinctive serial license number as a dealer and furnish the dealer with one or more sets of numbered dealer plates in accordance with the provisions of this section.

(2) (a) Dealer plates designed by the department must be similar to the numbered plates furnished to owners of motor vehicles under 61-3-332, but they must bear:

(i) the license number assigned to the dealer;

(ii) an abbreviation for the vehicle type of the dealer license issued, as follows:

(A) the letter "D" for a new motor vehicle dealer;

(B) the letters "UD" for a used motor vehicle dealer; or

(C) the letters "RV" for a new or used recreational vehicle dealer; and

(iii) the actual number of sets of dealer plates issued to the dealer.

(b) Dealer plates may not be issued to a motorcycle or trailer dealer or a wholesaler.

(3) Dealer plates must contain the prefix of the county in which the dealer's established place of business is located, followed by the dealer license type abbreviation, the dealer license number, and the number of sets of dealer plates issued to that dealer. For example, new motor vehicle dealer number 4 in Lewis and Clark County would be numbered 5D-4, and if the dealer were issued three sets of dealer plates, they would be numbered consecutively as follows, 5D-4-1, 5D-4-2, and 5D-4-3.

(4) (a) ~~Upon making such application, the applicant shall pay to the department, in~~ In addition to the fees required ~~of dealers and wholesalers~~ under the provisions of ~~subsection (2)~~ 61-4-101 and [section 6], ~~a fee of $5. Upon receipt of the application, fee, and bond, as provided above, the department shall examine the application, and may, prior to issuing a license, make individual investigation of the truth of the statements contained in the application. If the department is satisfied that the applicant qualifies for~~

~~the issuance of a license under the provisions of this chapter, the department may issue the license. The department may refuse, after investigation, to issue a license to an applicant as allowed by law.~~

~~(2) Registration or license fees shall be paid upon registration or reregistration of dealers in motor vehicles, recreational vehicles, or trailers as follows:~~

~~(a) (i) all dealers in motor vehicles and recreational vehicles, a~~ an applicant for a dealer license shall pay an annual fee of ~~$25~~ $100~~, which shall entitle such dealer to one set of number plates, and $25 additional fee~~ for each ~~additional~~ set of ~~number~~ numbered dealer plates requested and issued.~~, subject to the following limitations on the number of additional sets allowed a dealer:~~

(b) The number of dealer plates that may be issued to a dealer must be determined as follows:

(i) a dealer is entitled to one set of dealer plates upon the issuance of an original license or a renewed license;

(ii) an applicant qualified for a license renewal is entitled to additional sets of numbered plates based on the following formula:

(A) 5% of the first 100 vehicle sales for the previous year; plus

(B) 3% of the next 100 vehicle sales for the previous year; plus

(C) 2% of vehicle sales in excess of 200 for the previous year; and

(iii) a dealer is entitled to additional sets of dealer plates during a license term as the dealer's sales incrementally meet or exceed the requirements of the formula established in subsection (4)(b)(ii). However, the aggregate number of sets of dealer plates issued to a dealer under this subsection (4)(b)(iii) may not exceed the combined number allowed under subsections (4)(b)(i) and (4)(b)(ii).

~~(D) any additional sets upon a showing of good cause by the applicant dealer to the department.~~

~~(ii) in addition to the dealer plates allowed under subsection (2)(a)(i), a dealer who has purchased one or more sets of dealer plates or a licensed wholesaler is entitled to purchase demonstrator plates at a cost determined by the department to offset the cost of production. Demonstrator plates must be used in lieu of a dealer plate but only as set forth in subsection (6) and must be distinguished from dealer plates in a manner determined by the department. Wholesaler demonstrator plates must be distinguished from dealer demonstrator plates in a manner determined by the department.~~

~~(b) dealers in motorcycles, quadricycles, and trailers, including housetrailers, $45; and~~

~~(c) wholesalers in used motor vehicles, recreational vehicles, trailers (including semitrailers and special mobile equipment), and motorcycles (including quadricycles), $30.~~

~~(3) If a dealer or wholesaler is originally registered 6 months after the time of registration as set by law, the registration or license fee for the remainder of the year is one-half of the regular fee above given.~~

~~(4) A dealer or wholesaler in motor vehicles, recreational vehicles, or trailers who maintains more than one place of business or who maintains a branch establishment or establishments shall register and pay a registration or license fee for each place of business or establishment. A dealer may sell vehicles only from his licensed place of business unless the dealer notifies the department 10 days in advance, on a form prescribed by the department, of the opening date and location of an off-premises sale. Except for recreational vehicle dealers, an off-premises sale must be conducted within the city limits of the city of the dealer's licensed location or upon an adjacent off-premises site that is approved by the department and that is within the county of the dealer's licensed location. The sale may not exceed 10 consecutive business days, and a licensed dealer may not conduct more than 10 off-premises sales during any 1 calendar year.~~

~~(5) A new applicant for a used motor vehicle dealer or wholesaler license shall pay $300 to the department in addition to any other sums required by this section or other provisions of the law. An applicant for a renewal of a used motor vehicle dealer or wholesaler license shall certify under oath that he has sold more than five used motor vehicles during the preceding calendar year or pay an additional $300 before he may be licensed.~~

~~(6) Demonstrator plates provided for in subsection (2)(a)(ii) may be used only as follows:~~

~~(a) New and used motor vehicle or recreational vehicle demonstrator plates may be used:~~

~~(i) to demonstrate, for no more than 72 hours, an authorized vehicle held for sale, when operated by an individual holding a valid operator's license;~~

~~(ii) on authorized vehicles owned by the firm when operated by an officer or bona fide full-time employee of the dealer or wholesaler and used to transport the dealer's or wholesaler's own tools, parts, and equipment;~~

~~(iii) on authorized vehicles being tested for repair;~~

~~(iv) on authorized vehicles being moved to or from a dealer's place of business for sale;~~

~~(v) on authorized vehicles being moved to or from service and repair facilities before sale;~~

~~(vi) on authorized vehicles being moved to or from exhibitions within the state, provided any such exhibition does not exceed a period of 20 days.~~

~~(b) Mobile home and trailer dealer demonstrator plates may be used:~~

~~(i) on units hauled to or from the place of business of the manufacturer and the place of business of the dealer or to and from places of business of the dealer;~~

~~(ii) on mobile homes hauled to a customer's location for setup after sale;~~

~~(iii) on travel trailers held for sale to demonstrate the towing capability of the vehicle provided that a dated demonstration permit, valid for not more than 72 hours, is carried with the vehicle at all times;~~

~~(iv) on any motor vehicle owned by the dealer that is used only to move vehicles legally bearing mobile home and travel trailer dealer license plates of the dealer owning any such motor vehicle;~~

~~(v) on vehicles being moved to or from vehicle exhibitions within the state, provided any such exhibition does not exceed a period of 20 days.~~

(5) (a) A dealer is authorized to use and display dealer plates on a motor vehicle held for bona fide sale by the dealer and that is operated by or under the control of the dealer, the dealer's spouse, officers, or employees.

(b) For purposes of this subsection:

(i) the term "officers" includes only the persons listed on the manufacturer's franchise agreement or the importer's distribution agreement and the term "employees" means persons upon whom the dealer has paid social security taxes as a full-time employee; and

(ii) the display of a Monroney label or a buyer's guide label, as required by [section 5(2)], on a vehicle bearing dealer plates is prima facie evidence that the vehicle is offered for bona fide sale by the dealer.

(6) Dealer plates may not be used or displayed on vehicles used for hire, lease, or rental.

(7) (a) A dealer is accountable for each set of numbered dealer plates issued and shall file a quarterly report with the department certifying the disposition of each set of dealer plates assigned to the dealer and specifying the name, address, and occupation of the person primarily using each set of plates.

(b) A dealer who fails to submit an accountability report within 30 days of the end of the calendar quarter may be subject to the imposition of a civil penalty under 61-4-105.

(8) All numbered dealer plates expire on December 31 of the year of issue and are subject to renewal in accordance with the provisions of [section 6] and this section."

NEW SECTION. **Section 23. Assignment of demonstrator plates.** (1) A dealer or wholesaler may

purchase demonstrator plates at a fee of $3 a plate. Demonstrator plates must be issued for each vehicle type for which a dealer license is required under 61-4-102. Demonstrator plates must be designed by the department in a manner that distinguishes demonstrator plates from dealer plates.

(2) (a) New and used motor vehicle or recreational vehicle demonstrator plates may be used:

(i) to demonstrate, for not more than 72 hours, a vehicle held for sale, when operated by an individual holding a valid operator's license;

(ii) on vehicles owned by the dealership when operated by an officer or bona fide full-time employee of the dealer or wholesaler and used to transport the dealer's or wholesaler's own tools, parts, and equipment;

(iii) on vehicles being tested for repair;

(iv) on vehicles being moved to or from a dealer's place of business for sale;

(v) on vehicles being moved to or from service and repair facilities before sale; and

(vi) on vehicles being moved to or from exhibitions within the state, provided the exhibition does not exceed a period of 20 days.

(b) Mobile home and trailer demonstrator plates may be used:

(i) on units being hauled to or from the place of business of the manufacturer and the place of business of the dealer or to and from places of business of the dealer;

(ii) on mobile homes being hauled to a customer's location for setup after sale;

(iii) on travel trailers held for sale to demonstrate the towing capability of the vehicle, provided that a dated demonstration permit, valid for not more than 72 hours, is carried with the vehicle at all times;

(iv) on any motor vehicle owned by the dealer that is used only to move vehicles legally bearing mobile home and travel trailer dealer license plates of the dealer owning the motor vehicle; and

(v) on units being moved to or from exhibitions within the state, provided the exhibition does not exceed a period of 20 days.

(c) A vehicle being operated in accordance with this subsection (2) need only display one demonstrator plate conspicuously on the rear of the vehicle.

Section 24. Section 61-4-104, MCA, is amended to read:

"**61-4-104. Record of purchase or sale.** A dealer or wholesaler licensed under 61-4-101 shall keep

a book or record of the purchases, sales or exchanges, or receipts for the purpose of sale of used vehicles and a description of the vehicles, together with the name and address of the seller, of the purchaser, and of the alleged owner or other person from whom each vehicle was purchased or received or to whom it was sold or delivered, as the case may be. The description in the case of motor vehicles must also include the vehicle identification number and engine number, if any, and must include a statement that a number has been obliterated, defaced, or changed if that has occurred. In the case of a trailer, semitrailer, or special mobile equipment, the record must include the manufacturer's number and other numbers or identification marks that appear on the trailer, semitrailer, or special mobile equipment. The dealer or wholesaler must also have a duly assigned certificate of ownership from the owner of the motor vehicle to the dealer or wholesaler from the time the motor vehicle is delivered to the dealer or wholesaler until it has been disposed of by the dealer or wholesaler. It is a violation of this part for a dealer or wholesaler to fail to take assignment of all certificates of ownership or manufacturer's certificates of origin for vehicles acquired by the licensee or to fail to assign the certificate of ownership or manufacturer's certificate of origin for vehicles sold. All records required to be kept in accordance with this section, in addition to the required retention of odometer disclosure information under 61-3-206(4), must be physically located and maintained within the building referred to in 61-4-101~~(2)(b)(i)~~. An authorized representative of the department, upon presentation of the representative's credentials, may inspect and have access to and copy any records required under this chapter."

Section 25. Section 61-4-105, MCA, is amended to read:

"**61-4-105. Criminal penalty -- civil penalty imposed by agency.** (1) Any person violating the provisions of 61-3-501, 61-4-101 ~~through~~, 61-4-102, 61-4-104, ~~or~~ 61-4-120, or [sections 5 through 8] is guilty of a misdemeanor and subject to a fine of not less than $250 and not more than $500. For the purposes of this section, every sale of a motor vehicle in violation of the provisions of 61-3-501, 61-4-101 ~~through~~, 61-4-102, 61-4-104, ~~or~~ 61-4-120, or [sections 5 through 8] is a separate offense.

(2) In addition to all other penalties created by this part, the department is authorized to take appropriate enforcement action on its own initiative. Any person violating the provisions of 61-3-501, 61-4-101 ~~through~~, 61-4-102, 61-4-104, ~~or~~ 61-4-120, or [sections 5 through 8] may be subject to administrative action, in accordance with the contested case procedures of Title 2, chapter 4, as follows:

(a) a civil penalty not to exceed $200 for each violation;

(b) suspension of the motor vehicle dealer, wholesaler, or auto auction license not to exceed 5 working days;

(c) revocation or denial of the motor vehicle dealer, wholesaler, or auto auction license; or

(d) any combination of subsections (2)(a) through (2)(c)."

Section 26. Section 61-4-107, MCA, is amended to read:

"**61-4-107. Cease and desist order.** (1) When the department has reasonable cause to believe, from information furnished to it or from an investigation made by it, that a person is engaged in any business regulated by this part without being licensed as required, it shall immediately issue and serve upon the person, by certified mail, a cease and desist order requiring ~~him~~ the person to cease and desist from further engaging in that business. If the person fails to comply with the order, the department shall file an action in the district court of Lewis and Clark County to restrain and enjoin the person from engaging in the business. The court shall proceed in the action as in other actions for injunctions.

(2) The sale of more than three motor vehicles or the offering for sale of more than three motor vehicles, if the certificates of ownership are not held in the offeror's name, in any calendar year is prima facie evidence that the offeror is engaged in the business of dealing motor vehicles and must be licensed under this chapter.

(3) When the department has reasonable cause to believe, from an investigation made by it or information furnished to it by a law enforcement officer, that a dealer or wholesaler has been improperly licensed, has used a dealer's license in a manner other than as authorized in this title, has provided a material misstatement of fact in an application for a license, is not qualified as a dealer or wholesaler under the requirements of this title, or has engaged in criminal conduct that renders the dealer or wholesaler unfit for licensure, the department may revoke the dealer's or wholesaler's license."

Section 27. Section 61-4-108, MCA, is amended to read:

"**61-4-108. Exemptions.** (1) This part does not require licensure of, or restrict or prohibit a financial institution, as defined in 32-6-103:

(a) in the selling of collateral repossessed on default of a loan made by the financial institution;

(b) in the conduct of a motor vehicle sales promotion in affiliation with one or more licensed dealers; or

(c) in the conduct of a motor vehicle sales promotion in affiliation with a person regularly engaged in a bona fide vehicle rental business if the purpose of the sale is to dispose of used motor vehicles used in the rental business.

(2) This part does not require licensure of an auctioneer whose business consists primarily of the sale of personal property other than motor vehicles.

(3) This part does not require licensure of a licensed real estate broker or agent lawfully buying, selling, exchanging, taking on consignment, or acting as a broker of mobile homes."

Section 28. Section 61-4-120, MCA, is amended to read:

"**61-4-120. Application for auto auction license -- general regulations.** (1) A person, firm, association, or corporation that takes possession of a motor vehicle owned by another person through consignment, bailment, or any other arrangement for the purpose of selling the motor vehicle to the highest bidder when all buyers are licensed motor vehicle dealers, wholesalers, or wrecking facilities shall file by mail or otherwise in the office of the department a verified application for licensure as an auto auction. The application must be made in the following manner:

(a) Each application and all of the information contained in it must be verified by the department or an authorized representative of the department on a form to be furnished by the department for that purpose. The application must provide the following information:

(i) the name in which the business is to be conducted and the location of premises, including street address, city, county, and state, where records are kept, sales are made, and motor vehicle stock is displayed as an established place of business that displays a sign indicating the firm name and that vehicles are offered for sale. The letters on the sign must be clearly visible and readable to the major avenue of traffic at a minimum distance of 150 feet.

(ii) the name and address of all owners or persons having an interest in the business. In the case of a corporation, the names and addresses of the president and secretary are sufficient.

(iii) a statement that the applicant is authorized to auction used motor vehicles, recreational vehicles, trailers, semitrailers, special mobile equipment, motorcycles, and quadricycles under one license. A licensed auto auction may not auction a new motor vehicle except when authorized by a new motor vehicle manufacturer, importer, distributor, or representative ~~thereof~~, for the purpose of conducting a closed-factory fleet sale to dispose of new motor vehicles by the franchisor (manufacturer, distributor,

or importer) to franchisee purchasers when the purchasers are licensed new motor vehicle dealers purchasing new motor vehicle line-makes authorized by their respective franchise, sales, or distributor agreements. An auto auction licensed under the provisions of this section shall notify and update the department with current fleet sale agreements between the auto auction and franchisor. An auto auction may not conduct a factory fleet sale unless authorized or appointed by a franchisor licensed under part 2 of this chapter.

(b) Each application must be accompanied by a bond of $25,000 and must be conditioned that the applicant shall conduct business in accordance with the requirements of the law. All bonds must run to the state of Montana, must be approved by the department and filed in its office, and must be renewed annually. ~~A person who suffers loss or damage due to the unlawful conduct of an auto auction licensed under this section may proceed in the same manner as provided for licensed dealers and wholesalers in 61-4-101(3)(b).~~

(2) An auto auction's license must be renewed and paid for annually to the department, and an application for relicensure must be filed by January 1 of each year. The fee required for each first-time applicant is $500 and for subsequent renewal applications is $100 each year. Upon receipt of a properly completed application, fee, and bond, the department shall issue the auto auction license and assign an auto auction license number for each applicant in a manner determined by the department. Auto auctions dealing in motor vehicles may sell only to licensed dealers and wholesalers.

(3) Auto auctions that are licensed under this section and that hold a current license number may issue temporary permits, which may be displayed and used by a buyer to operate an unregistered vehicle purchased from the auto auction. The temporary permit is valid for a period of 72 hours from the time of purchase and may be used only for the purpose of driving or transporting a vehicle from the auction premises to the purchaser's established place of business or point of destination. Temporary permits must be on a form prescribed by the department and must contain the name, address, and license number of the purchaser, date of sale, name, address, license number, and authorized signature of the auto auction, and a description of the vehicle, including its serial number. The department shall collect a fee of $10 from the auto auction for each temporary permit, and the auto auction may charge a vehicle purchaser no more than $10 for the issuance of each permit to offset the cost of the permit. It is unlawful for the auto auction to issue more than one temporary permit per vehicle sale.

(4) A licensed auto auction may apply for and may be authorized by the department to purchase

and use license plates of a type and amount approved by the department, upon payment of a fee to the department to offset the cost of production. Licensed auto auctions may use the license plates to transport inventory vehicles from a point of storage or a point of delivery in this state to the auto auction's place of business, for road testing authorized vehicles, or for moving vehicles for purposes of repairing, painting, upholstering, polishing, and related activities. One license plate is required to be conspicuously displayed on the rear of the vehicle. Auto auctions may appoint designated persons, partnerships, corporations, service stations, or repair garages to use the license plate only when conducting work for the auto auction involving repairing, painting, upholstering, polishing, or performing similar types of work upon a vehicle. Upon application for an auto auction license, the applicant, if requesting the license plates, shall submit a sworn affidavit on a form prescribed by the department, listing each authorized person designated by the auction to use the license plates. The auto auction is responsible for reporting any changes to the affidavit within 72 hours after the amendment has occurred. An auto auction licensed under the provisions of this section is liable for the proper use of the license plates, which may not be used for private purposes. The department may revoke an auto auction's 72-hour temporary permit and license plate privileges if an auction issues, authorizes the use of, or uses a temporary permit or the license plate in violation of the provisions of this section.

(5) (a) Each auto auction shall keep a book or record, in a form and manner subject to approval by the department, of the purchases, sales, or exchanges or the receipts for the purpose of sale of any motor vehicle, a properly completed copy of a temporary permit issued to a vehicle purchaser, the date of title transfer, and a description of the motor vehicle, together with the name and address of the seller, the purchaser, and the alleged owner or other person from whom the motor vehicle was purchased or received or to whom it was sold or delivered. The description in the case of a motor vehicle must include:

(i) the vehicle identification number and engine number, if any; and

(ii) a statement that a number has been obliterated, defaced, or changed, if it has.

(b) An auto auction licensed under this section shall validate the sale of a motor vehicle through its auction by stamping its name and license number upon the certificate of ownership at a location on the front or back of the certificate, at the margin in the assignment section as executed between the transferor and transferee. An auto auction's stamp must be legible and may not interfere with the information recorded on the certificate between the transferor and transferee. If the certificate of ownership lacks adequate space for the auto auction to place its stamp, the auction may provide the

transferee a copy of the auction invoice bearing the:

(i) name and license number of the auction, along with an indication of the vehicle year, make, model, and identification number;

(ii) name, address, and signature of the transferor;

(iii) name, license number, and signature of the transferee; and

(iv) date the vehicle was sold through the auction.

(c) The invoice must be attached to the certificate of ownership and must be presented to the department with any application for title.

(d) An auto auction shall retain, for 5 years, odometer disclosure information, including the name of the owner on the date the auto auction took possession of the motor vehicle, the name of the buyer, the vehicle identification number, and the odometer reading on the date the auto auction took possession of the motor vehicle. The odometer information may be retained in any way that is systematically retrievable and is not required to be maintained on any special disclosure form. The information may be part of the auction receipt or invoice or be maintained as a portion of a computer database or manual file. An auto auction that executes a transfer of ownership as an agent on behalf of a seller or buyer is liable for providing an odometer disclosure statement for the seller or an odometer disclosure acknowledgment for the buyer under the provisions of 61-3-206."

Section 29. Section 61-4-205, MCA, is amended to read:

"**61-4-205. Limitations on cancellation and termination.** (1) Notwithstanding the terms, provisions, or conditions of any agreement or franchise, a franchisor may not cancel, terminate, or refuse to continue a franchise unless the franchisor has cause for termination or noncontinuance.

(2) A franchisor may not enter into a franchise for the purpose of establishing an additional new motor vehicle dealership in any community in which the same line-make is then represented unless there is good cause for an additional new motor vehicle dealership under a franchise and that it is in the public interest.

(3) If a franchisor seeks to terminate or not continue a franchise or seeks to enter into a franchise establishing an additional new motor vehicle dealership of the same line-make, the franchisor shall, not less than 60 days prior to the intended action, and the franchisee may, at any time, file a notice with the department of intention to terminate or not continue the franchise or to enter into a franchise for

additional representation of the same line-make. A notice of intention to terminate or not continue a franchise is not required from a franchisor until the conclusion of any review proceeding of that intention offered to the franchisee under the franchise. This section does not apply to an intended termination or noncontinuance of a franchise that the franchisee elects voluntarily, pursuant to a plan established by a franchisor, to submit to binding arbitration.

(4) Upon receiving a notice of intention under the provisions of subsection (3), the department shall, within 5 days of receipt of a notice of intention, send by certified mail, with return receipt requested, a copy of the notice to the franchisor and to the franchisee whose franchise the franchisor seeks to establish, terminate, or not continue. If the notice states an intent to establish an additional new motor vehicle dealership, a copy of the notice must be sent within 5 days of receipt to all franchisees in the community who are then engaged in the business of offering to sell or selling the same line-make. Copies of notices must be addressed to the principal place of business of each recipient and to the statutory agent of each corporate recipient. The department may also give a copy of the franchisor's notice to any other parties whom the department may consider interested persons.

(5) In instances where the change in ownership has the effect of the sale of the franchise, the franchisor may not without good cause withhold its consent to the sale. Good cause relates only to the transferee's financial and managerial capabilities or to the inability of the transferee to comply with a state or federal law relating to new motor vehicle dealerships. The burden of establishing good cause is upon the franchisor.

(6) Notwithstanding the terms, provisions, or conditions of an agreement or franchise, in the event of the sale or transfer of ownership of the franchisee's dealership by sale or transfer of the business or by stock transfer to the dealer's or wholesaler's spouse, son, or daughter, the franchisor shall give effect to the sale or transfer of ownership in the franchise unless the transfer of the franchisee's new motor vehicle dealer's or wholesaler's license is denied or the new owner is unable to obtain a license under the laws of this state.

(7) If a franchisor enters into or attempts to enter into a franchise, whether upon termination or refusal to continue another franchise or upon the establishment of an additional new motor vehicle dealership in a community where the same line-make is then represented, without first complying with the provisions of this part, a license under 61-4-101 ~~through 61-4-105~~ may not be issued to that franchisee or proposed franchisee to engage in the business of selling new motor vehicles manufactured

or distributed by that franchisor."

Section 30. Section 61-10-214, MCA, is amended to read:

"**61-10-214. Exemptions.** (1) Motor vehicles operating exclusively for transportation of persons for hire within the limits of incorporated cities or towns and within 15 miles from the limits are exempt from this part.

(2) Motor vehicles brought or driven into Montana by a nonresident, migratory, bona fide agricultural worker temporarily employed in agricultural work in this state when those motor vehicles are used exclusively for transportation of agricultural workers are exempt from this part.

(3) Vehicles lawfully displaying a ~~licensed~~ dealer's or wholesaler's plate as provided in ~~61-4-103~~ 61-4-102 and [section 7] are exempt from this part for a period not to exceed 7 days when moving to or from a dealer's or wholesaler's place of business when unloaded or loaded with dealer's or wholesaler's property only or while being demonstrated in the course of the dealer's or wholesaler's business. Vehicles being demonstrated may not be leased, rented, or operated for compensation by the licensed dealer or wholesaler.

(4) Vehicles exempt from property tax under 15-6-201(1)(a), (1)(c) through (1)(e), (1)(g), (1)(o), (1)(q), and (1)(v) are exempt from this part. The department of transportation may require documentation of tax-exempt status from the department of revenue before granting this exemption."

NEW SECTION. **Section 31. Repealer.** Section 61-4-103, MCA, is repealed.

NEW SECTION. **Section 32. Codification instruction.** (1) [Sections 1 through 3] are intended to be codified as an integral part of Title 61, chapter 1, and the provisions of Title 61, chapter 1, apply to [sections 1 through 3].

(2) [Sections 4 through 8 and section 23] are intended to be codified as an integral part of Title 61, chapter 4, part 1, and the provisions of Title 61, chapter 4, part 1, apply to [sections 4 through 8 and section 23].

NEW SECTION. **Section 33. Effective dates.** (1) [Sections 4, 32, and 34 and this section] are effective on passage and approval.

(2) [Sections 1 through 3 and 5 through 31] are effective October 1, 1999.

NEW SECTION. **Section 34. Applicability.** [Sections 1 through 3 and 5 through 30] apply to license terms beginning after December 31, 1999.

- END -

MINUTES

MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON HIGHWAYS AND TRANSPORTATION

Call to Order: By **CHAIRMAN ARNIE MOHL**, on January 26, 1999 at 3:00 P.M., in Room 410 Capitol.

ROLL CALL

Members Present:

Sen. Arnie Mohl, Chairman (R)
Sen. Ric Holden, Vice Chairman (R)
Sen. Mack Cole (R)
Sen. Bob DePratu (R)
Sen. John Hertel (R)
Sen. Reiny Jabs (R)
Sen. Greg Jergeson (D)
Sen. Glenn Roush (D)
Sen. Debbie Shea (D)
Sen. Spook Stang (D)

Members Excused: Sen. Daryl Toews (R)

Members Absent: None.

Staff Present: Connie Erickson, Legislative Branch
Phoebe Olson, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 137 SB 138 SB 139 SB 156 SB 113, 1/19/1999
Executive Action: SB 133

SENATOR LYNCH, said they should refer to **SENATOR HOLDEN,** because he was sure he could educate all the people in Dawson County.

SENATOR HOLDEN, asked **SENATOR LYNCH** to suggest a jingle to help Dawson County remember their number.

SENATOR LYNCH, suggested "Sweet 16, Dawson All the Way."

SENATOR REINY JABS, asked if a person were to keep their number forever, if that wouldn't confuse everyone.

SENATOR SPRAGUE, said that the Highway Patrol could handle it. All they would have to do is pay attention to the sticker that is at the top of the plate with the correct number.

SENATOR DEBBIE SHEA, commented that she taught her children that the license plates numbers had to do with a historic perspective than current population.

SENATOR SPRAGUE, said he was glad that some relevance was being put into it. He challenged someone in the committee to name the numbers 46 to 56 and if they could he would concede the bill.

SENATOR BARRY "SPOOK" STANG, lived up to the challenge.

SENATOR ARNIE MOHL, stated that Butte was not number one completely but that the paper said Kalispell was the number one mountain city of the whole northwest.

Closing by Sponsor:

SENATOR SPRAGUE, thanked the Committee for a good hearing. He thought it was interesting that the newspapers did not agree on which number 10 should be. He stated that no one really knew for sure how it should be numbered. He said if numbers were not relevant there should be no numbers at all, but if they were relevant then they should be accurate. He thanked the committee for a good hearing.

HEARING ON SB 113

Sponsor: **SENATOR DALE MAHLUM, SD 35, Missoula**

Proponents:

Dean Roberts, MT Department of Transportation
Brenda Nordlund, MT Department of Justice
Gary Langley, MT Independent Automobile Association
Jim Robinson, MT Independent Automobile Association
Mark Steffes, MT Independent Automobile Association
Steve Turkiewitz, MT Auto Dealers Association
Allen Bundcroft, Great Falls Auto Corner
Bob Gilbert, MT Tow Truck Association
Milo Casagrande, MT Tow Truck Association
Jim Dusenberg, J and D Truck Repair
Stuart Doggett, MT Manufactured Housing, RV Association

Opponents: **None**

Opening Statement by Sponsor:

SENATOR DALE MAHLUM, SD 35, Missoula, said that **SB 113** had many different aspects, but basically it protected the consumers of the State of Montana. He said **SB 113** assured that only qualified and responsible dealers sell motor vehicles to the public. He asserted that the bill was introduced by the request of the Department of Justice, and also by the request of several car dealers in his area. He quoted Attorney General Joe Mazurek, "unregulated used car dealers are cheating the public and not playing by the same rules as regulated dealers". Also Assistant Attorney General Brenda Nordlund, "**SB 113** will eliminate fly-by-night operators who are not regulated and who sell vehicles from parking lots, garages and out of their homes." He stated that this would not effect salvage or wrecking yards, tow truck operators, or RV dealers, who are already regulated under existing law. He explained that the major provisions of **SB 113** were a dealer must have an established place of business, with a sign stating the nature of the business. Regular business hours must be posted and a noncellular phone must be in use. A 25,000 dollar bond must be posted and garage keepers and vehicle liability insurance would have to be purchased. Also, at least 18 vehicles a year must be sold.

Proponents' Testimony:

Dean Roberts, MT Department of Transportation, gave a brief history of where the bill came from. He said there were 1764

dealers in Montana that were involved in the entire process of the bill.

Brenda Nordlund, MT Department of Justice, submitted fact sheet, **EXHIBIT(3)** and an amendment to the bill. **EXHIBIT(4)**

Gary Langley, MT Independent Automobile Association, said the association officially supported the bill and urged a do pass recommendation.

Jim Robinson, MT Independent Automobile Association, said the associations major function was to watchdog legislation that is pro and con auto industry. He made the point that the last two session had done very well for the auto industry. He said that it was important to put some teeth in the law so it would be enforced.

Mark Steffes, MT Independent Automobile Association, said that this bill suited the association very well in that it gave the association some credibility with their consumers. He remarked that he would be glad to answer any questions.

Steve Turkiewitz, MT Auto Dealers Association, felt that this industry was interested in regulating itself in fairness to its consumers and he urged a do pass.

Allen Bundcroft, Great Falls Auto Corner, said he would appreciate the committee's support of the bill.

Bob Gilbert, MT Tow Truck Association, said he supported the bill with the amendments.

Milo Casagrande, MT Tow Truck Association, said he would like the committee to support the bill.

Jim Dusenberg, Capitol City Towers and J and D Truck Repair, said they were in support of this bill.

Stuart Doggett, MT Manufactured Housing, RV Dealers Association, said this was a good consumer bill and they would like to go on record in support of it.

Opponents' Testimony: None

Questions from Committee Members and Responses:

SENATOR JABS, asked what "proof of garage" meant.

SENATOR MAHLUM, responded that meant you had to have an area to display or sell a car. Proof that you were a business.

SENATOR MAC COLE, asked if any part of the bill covered him selling a pickup to **SENATOR HERTEL.**

SENATOR MAHLUM, said there would be no problem. This bill only covered those people who were trying to derive a livelihood out of it.

SENATOR COLE, asked where in the bill that was clarified.

Brenda Nordlund, said clarification was found on page 9, lines 29 through 30.

SENATOR DARYL TOEWS, said that an assumption was made that if people fell under these restrictions, that would make them responsible. He did not believe this to be so.

Brenda Nordlund, said he was absolutely right in terms of making a person responsible. But their role as a regulator was to make it very clear what was required under the law.

SENATOR TOEWS, stated that this seemed like more of a turf thing than anything else. If the other people would not have been grandfathered in, they would have heard from those who were infringed on.

Brenda Nordlund, said there was an aspect of the amendments that was in fact a turf battle. She maintained that all states that neighbor Montana had a retail sales threshold to maintain status as a used car dealer. She contended that 18 was the medium of most of those states. She said 48% of the used car dealers sell 15 or fewer vehicles in a year.

SENATOR JOHN HERTEL, asked if Brenda could explain what 61-4103 actually repealed.

Brenda Nordlund, responded that it was repealed because most of what was in that section was moved to other sections.

{Tape : 2; Side : A; Approx. Time Counter : 0}

SENATOR HOLDEN, asked if this bill would apply to the sale of farm vehicles.

Brenda Nordlund, said that it would not apply because those vehicles would be registered in the name of the owner.

SENATOR HOLDEN, asked what part of the bill talked about the buyers guide sticker.

Brenda Nordlund, stated that was covered on page 3, line 33 through page 4 line 4.

SENATOR HOLDEN, inquired what part of the bill talked about insurer notification to the Department of Justice.

Brenda Nordlund, said that appeared on page 4, lines 21 and 26.

SENATOR HOLDEN, asked where the fiscal note was for the Department, for the insurance notification part.

Brenda Nordlund, said she anticipated the Department being able to absorb those costs.

SENATOR HOLDEN, asked what part of the bill specifically speaks to the 18 vehicle cap.

Brenda Nordlund, said that the 18 vehicle cap appeared on page 8, lines 12 through 23, and page 5, lines through page 6 line 20.

SENATOR HOLDEN, stated he was somewhat distressed that in order to get an agreement on this, people had to be bought out by giving a grandfather clause. He believed that the bill stymied further competition, and he had some major reservations on the legislation.

Brenda Nordlund, said she appreciated his concerns. She said the two most important parts of the bill to the Department were the

citation writing authority to the compliance specialists and the garage keepers liability insurance.

SENATOR HOLDEN, asked why Brenda felt that compliance provisions were so important when there were already law enforcement people to uphold the current law.

Brenda Nordlund, said the Department felt it was important because they were very supportive of their compliance specialists. She said if they had the ability to write a citation without running down local law enforcement it gave their position more credibility.

Senator Holden, stated a fiscal note was needed for the compliance features of the bill.

Dean Roberts, Department of Justice, said the Department already had compliance specialists, so a fiscal note was not needed because no new people were being added. He conveyed that no new duties were being assigned, but that the duties would just be easier to perform.

SENATOR TOWES, inquired if they were already sending their proof of insurance in to the Department and if they were already keeping those records.

Dean Roberts, said "no", but they were already taking care of all the bonding issues.

SENATOR MOHL, asked how the RV dealers could go to other cities and set up in parking lots and be in competition with the dealers that were already established in that city.

Brenda Nordlund, said that was current law. She conveyed that it appeared in this bill on page 4, lines 8 though 12.

SENATOR MOHL, asked if the bill couldn't be amended so that RV dealers fell under the same conditions.

Brenda Nordlund, said that would most likely be possible.

SENATOR MOHL, said he had a real problem with the Department taking on additional responsibilities, with out reflecting them with a fiscal note.

Dean Roberts, reiterated again that all these functions were already performed in the Department. This would make the job easier.

SENATOR MOHL, asked **SENATOR MAHLUM** to double check there would be no fiscal impact.

Closing by Sponsor:

SENATOR MAHLUM, thanked the committee for a good hearing. He addressed some of Senator Holden's concerns, but believed that he might not experience some of the problems in his smaller communities. He gave some examples of problems in Missoula that caused this bill to come forward. He said the bill was designed not to hurt qualified dealers now in existence. He contended the bill protected against unscrupulous salesmen. He believed the industry wanted this legislation to protect the integrity of their industry. He thanked the committee.

{Tape : 2; Side : A; Approx. Time Counter : 444; Comments : Stopped tape for a five minute break.}

EXECUTIVE ACTION ON SB 133

Motion: **SEN. HOLDEN** moved that **SB 133 DO PASS.**

Motion: **SEN. HOLDEN** moved that **AMENDMENT SB013308.ace, by SENATOR MOHL DO PASS. EXHIBIT(5)**

Discussion:

SENATOR MOHL, said this amendment put **SB 149** into **SB 133** so the final bill would be a joint effort between the legislators, the Governor, and Attorney General. He also said this amendment did change the speed in school zones to 15mhp from 35mhp, but that was not in the copy that the committee had.

Connie Erickson, explained the amendment.

SENATE HIGHWAYS
EXHIBIT NO. 5
DATE 1-26-99
BILL NO. SB 133

Amendments to Senate Bill No. 133
1st Reading Copy

Requested by Senator Arnie Mohl

For the Senate Highways and Transportation Committee

Prepared by Connie Erickson
January 26, 1999

1. Title, line 7.
Following: "STATE;"
Insert: "IMPOSING A SPECIAL SPEED LIMIT ON U.S. HIGHWAY 93;"
Following: "LIMITS;"
Insert: "ALTERING THE SPEED LIMITS LOCAL AUTHORITIES CAN SET;"

2. Title, line 11 through line 12.
Following: "PURPOSES;" on line 11
Strike: remainder of line 11 through "HOUSETRAILER;" on line 12

3. Page 1, line 18 through page 8, line 15.
Strike: everything following the enacting clause
Insert: **"Section 1.** Section 7-14-2113, MCA, is amended to read:

"7-14-2113. County authority to establish speed limits. A board of county commissioners may, by ordinance, establish a special speed limit in accordance with ~~61-8-306 and~~ 61-8-310 on any county road.""

Insert: **"Section 2.** Section 61-8-303, MCA, is amended to read:

"61-8-303. Speed restrictions -- basic rule. (1) A person ~~operating or driving~~ shall operate a vehicle ~~of any character on a public highway of this state shall drive the vehicle~~ in a careful and prudent manner and at a rate of speed no greater than is reasonable and proper under the conditions existing at the point of operation, taking into account the amount and character of traffic, ~~condition of brakes, weight of vehicle, grade and width of highway, condition of surface, and freedom of obstruction to the view ahead~~ visibility, weather, and roadway conditions. ~~The person operating or driving the vehicle shall drive the vehicle so as not to unduly or unreasonably endanger the life, limb, property, or other rights of a person entitled to the use of the street or highway.~~

(2) When no special hazard exists that requires lower speed for compliance with subsection (1), the speed of a vehicle not in excess of the limits specified in [section 3] and this section or established as authorized in 61-8-309 through 61-8-311 and 61-8-313 is lawful, but a speed in excess of ~~the following limits~~ 25 miles an hour in an urban district is unlawful~~:~~

~~(a) 25 miles per hour in an urban district;~~

~~(b) 55 miles per hour in other locations during the nighttime, except that the nighttime speed limit on completed sections of interstate highways is 65 miles per hour.~~

~~(3) "Daytime" means from one-half hour before sunrise to one-half hour after sunset. "Nighttime" means at any other hour.~~

~~(4)~~(3) The speed limits set forth in this section may be altered by the transportation commission or a local authority as authorized in 61-8-309, 61-8-310, 61-8-313, and 61-8-314.

~~(5) The driver of a vehicle shall, consistent with subsection (1), drive at an appropriate reduced speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon a narrow or winding roadway, and when a special hazard exists with respect to pedestrians or other traffic or by reason of weather or highway condition.~~""

Insert: "NEW SECTION. **Section 3. Speed limits -- exception to basic rule.** (1) Except as provided in 61-8-309, 61-8-310, 61-8-312, and subsection (2) of this section, the speed limit for vehicles traveling:

(a) on a federal-aid interstate highway outside an urbanized area of 50,000 population or more is 75 miles an hour at all times and the speed limit for vehicles traveling on federal-aid interstate highways within an urbanized area of 50,000 population or more is 65 miles an hour at all times;

(b) on any other public highway of this state is 70 miles an hour during the daytime and 65 miles an hour during the nighttime.

(2) The speed limit for vehicles traveling on U.S. highway 93 between the Canadian and Idaho borders is 65 miles an hour at all times. The speed limit imposed by this subsection ceases to be effective if U.S. highway 93 is upgraded to a continuous four-lane highway.

(3) A speed in excess of the speed limit established pursuant to this section is unlawful notwithstanding any provision of 61-8-303(1).

(4) "Daytime" means from one-half hour before sunrise to one-half hour after sunset. "Nighttime" means at any other hour.

(5) The speed limits set forth in this section may be altered by the commission or a local authority as authorized in 61-8-309, 61-8-310, 61-8-313, and 61-8-314."

Insert: "NEW SECTION. **Section 4. Penalty for violation of speed limits -- no record for certain violations.** (1) Subject to subsection (2), a person violating the speed limit imposed pursuant to [section 3] is guilty of a misdemeanor and shall be fined in accordance with the following schedule:

Amount of Fine	MPH in Excess of Speed Limit
$25	1 - 10
40	11 - 20
70	21 - 30

(2) A violation of a speed limit imposed pursuant to [section 3] may not be recorded or charged against a driver's record, and an insurance company may not hold a violation of a speed limit against the insured or increase premiums because of the violation if the speed limit is exceeded by no more than:

(a) 10 miles an hour during the daytime; or

(b) 5 miles an hour during the nighttime."

Insert: "Section 5. Section 61-8-309, MCA, is amended to read:

"61-8-309. Establishment of special speed zones. (1) (a) If the commission determines upon the basis of an engineering and traffic investigation that a speed limit set by 61-8-303 or [section 3] is greater or less than is reasonable or safe under the conditions found to exist at an intersection, curve, dangerous location, or any other part of a highway under its jurisdiction, the commission may set a reasonable and safe special speed limit at that location.

(b) If a local authority requests the department of transportation or an engineer, as provided in subsection (1)(c)(i), to conduct an engineering and traffic investigation based on the belief that a speed limit on a highway under the department's jurisdiction is greater than is reasonable or safe, the commission may not increase the speed limit under consideration as a result of the investigation.

(c) (i) A local authority may request at its own expense that an engineering and traffic investigation be completed by a licensed professional engineer selected from a list compiled and approved by a committee as provided in subsection (1)(c)(ii).

(ii) A committee containing two department of transportation staff appointed by the director and two representatives of associations whose membership comprises cities, towns, and counties, as authorized by 7-5-2141 and 7-5-4141, shall review credentials submitted by licensed professional engineers and shall determine who appears on the list of individuals authorized to conduct engineering and traffic investigations for local governments. The list ~~must be completed by October 1, 1997, and~~ must be updated every 2 years.

(iii) Upon completion of an engineering and traffic investigation conducted for a local government, the department of transportation shall submit a report to the commission with findings and recommendations. The commission shall decide on an appropriate speed limit based on the traffic investigation within 120 days from the date the investigation is submitted to the department.

(2) The department of transportation shall erect and maintain appropriate signs giving notice of these special limits. When they are erected, the limits are effective at that part at all times or at other times that the commission sets.

(3) The authority of the commission under this section includes the authority to set reduced nighttime speed limits on curves and other dangerous locations.

(4) This section does not authorize the commission to set a statewide speed limit.""

Insert: "Section 6. Section 61-8-310, MCA, is amended to read:

"61-8-310. When local authorities may and shall alter limits. (1) If a local authority in its jurisdiction determines on the basis of an engineering and traffic investigation that the speed permitted under 61-8-303, ~~and~~ 61-8-309 through 61-8-313, and [section 3] is greater or less than is reasonable and safe under the conditions found to exist upon a highway or part of a highway, the local authority may set a reasonable and safe limit that:

(a) decreases the limit at an intersection;

(b) increases the limit within an urban district, but not to more than ~~55~~ 65 miles ~~per~~ an hour during the nighttime;

(c) decreases the limit outside an urban district, but not to less than ~~15~~ 35 miles ~~per~~ an hour; or

(d) decreases the limit in an area near a school, a senior citizen center, as defined in 23-5-112, or a designated crosswalk, as crosswalk is defined in 61-1-209, that is close to a school or a senior citizen center to not less than 80%, rounded down to the nearest whole number evenly divisible by 5, of the limit that would be set on the basis of an engineering and traffic investigation, but not less than 15 miles an hour. If warranted by an engineering and traffic investigation, a local authority may adopt variable speed limits to adapt to traffic conditions by time of day, provided that the variable limits comply with the provisions of 61-8-206.

(2) A board of county commissioners may set limits, as provided in subsection (1)(c), without an engineering and traffic investigation on a county road, as defined in 60-1-103.

(3) A local authority in its jurisdiction may determine the proper speed for all arterial streets and shall set a reasonable and safe limit on arterial streets that may be greater or less than the speed permitted under 61-8-303 or [section 3] for an urban district.

(4) An altered limit established as authorized under this section is effective at all times or at other times determined by the authority when appropriate signs giving notice of the altered limit are erected upon the highway.

(5) Except as provided in subsection (1)(d), the commission has exclusive jurisdiction to set special speed limits on all federal-aid highways or extensions of federal-aid highways in all municipalities or urban areas. The commission shall set these limits in accordance with 61-8-309.""

Insert: "Section 7. Section 61-8-312, MCA, is amended to read:

"61-8-312. Special speed limitations on trucks, truck tractors, motor-driven cycles, and vehicles towing housetrailers. (1) ~~A person may not operate a truck or truck tractor, the gross weight of which exceeds 8,000 pounds, at a speed greater than 65 miles an hour~~ Except as provided in 61-8-303, 61-8-309, 61-8-310,

and subsection (2) of this section, the speed limit for a truck or truck tractor of more than 1 ton "manufacturer's rated capacity" traveling on ~~those~~ completed sections of interstate and four-lane divided highways and ~~60 miles an hour~~ on ~~those~~ completed sections of primary and secondary highways is 70 miles an hour during the daytime and 65 miles an hour during the nighttime as those terms are defined in [section 3]. ~~However, the truck nighttime speed limit may not exceed that of automobiles, as stated in 61-8-303.~~

(2) ~~A person may not operate~~ Except as provided in 61-8-303, 61-8-309, and 61-8-310, the speed limit for a vehicle subject to a term permit under 61-10-124(2)(d) or a truck-trailer-trailer or truck tractor-semitrailer-trailer-trailer combination of vehicles subject to special permits under 61-10-124(4) ~~at a speed greater than~~ is ~~55~~ 65 miles an hour unless otherwise stated in the permit.

(3) A person may not operate a motor-driven cycle at any time mentioned in 61-9-201 at a speed greater than 35 miles an hour unless the motor-driven cycle is equipped with a headlamp or lamps that are adequate to reveal a person or vehicle at a distance of 300 feet ahead.

(4) A person may not operate a vehicle that is towing a housetrailer at a speed greater than a maximum of 50 miles an hour.""

Insert: "Section 8. Section 61-9-415, MCA, is amended to read:

"61-9-415. Slow-moving vehicles. (1) It is unlawful for a person to operate on a state highway, a farm, rural, or county road, or a city street of this state a slow-moving vehicle or equipment, an animal-drawn vehicle, or any other machinery, including all road construction or maintenance machinery, except when engaged in actual construction or maintenance work either guarded by a flag person or clearly visible warning signs, that normally travels or is normally used at a speed of less than 25 miles an hour, unless there is displayed on the rear of the vehicle an emblem as provided in subsection (2) ~~of this section~~. The requirement of the emblem is in addition to any lighting devices required by law.

(2) The emblem required by subsection (1) must be of substantial construction~~,~~ and must be a based-down equilateral triangle of fluorescent yellow-orange film or equivalent quality paint with a base of 14 inches and a height of 12 inches. The triangle must be bordered with reflective red strips having a minimum width of 1 3/4 inches, with the vertices of the overall triangle truncated so that the remaining height is a minimum of 14 inches. The emblem must be mounted on the rear of the vehicle near the horizontal geometric center of the vehicle at a height of 3 to 5 feet above the roadway~~,~~ and must be maintained in a clean, reflective condition.

(3) In addition to the requirements in subsection (2), on a highway that has only two lanes for traffic moving in opposite

directions, when an overtaking vehicle being operated in conformity with 61-8-303 or [section 3] does not have a clear lane for passing as required by 61-8-325, the driver of a slower-moving, overtaken vehicle shall, at the first opportunity and when a safe turnout exists, move the overtaken vehicle off the main-traveled portion of the highway until the overtaking vehicle is safely clear of the overtaken vehicle.""

Insert: "Section 9. Section 61-11-203, MCA, is amended to read:

"61-11-203. Definitions. As used in this part, the following definitions apply:

(1) "Conviction" means a finding of guilt by duly constituted judicial authority, a plea of guilty, or a forfeiture of bail, bond, or other security deposited to secure appearance by a person charged with having committed any offense relating to the use or operation of a motor vehicle ~~which~~ that is prohibited by law, ordinance, or administrative order.

(2) "Habitual traffic offender" means any person who within a 3-year period accumulates 30 or more conviction points according to the schedule specified in this subsection:

(a) deliberate homicide resulting from the operation of a motor vehicle, 15 points;

(b) mitigated deliberate homicide, negligent homicide resulting from operation of a motor vehicle, or negligent vehicular assault, 12 points;

(c) any offense punishable as a felony under the motor vehicle laws of Montana or any felony in the commission of which a motor vehicle is used, 12 points;

(d) driving while under the influence of intoxicating liquor or narcotics or drugs of any kind or operation of a motor vehicle by a person with alcohol concentration of 0.10 or more, 10 points;

(e) operating a motor vehicle while the license to do so has been suspended or revoked, 6 points;

(f) failure of the driver of a motor vehicle involved in an accident resulting in death or injury to any person to stop at the scene of the accident and give the required information and assistance, as defined in 61-7-105, 8 points;

(g) willful failure of the driver involved in an accident resulting in property damage of $250 to stop at the scene of the accident and give the required information or failure to otherwise report an accident in violation of the law, 4 points;

(h) reckless driving, 5 points;

(i) illegal drag racing or engaging in a speed contest in violation of the law, 5 points;

(j) any of the mandatory motor vehicle liability protection offenses under 61-6-301 and 61-6-302, 5 points;

(k) operating a motor vehicle without a license to do so, 2 points (this subsection (k) does not apply to operating a motor vehicle within a period of 180 days from the date the license expired);

(l) speeding, except as provided in [section 4(2)], 3

points;

(m) all other moving violations, 2 points.

(3) There may not be multiple application of cumulative points when two or more charges are filed involving a single occurrence. If there are two or more convictions involving a single occurrence, only the number of points for the specific conviction carrying the highest points is chargeable against that defendant.

(4) "License" means any type of license or permit to operate a motor vehicle.""

Insert: "NEW SECTION. **Section 10. Relationship between speed limits and basic rule.** (1) The maximum numerical speed limits imposed under this part do not authorize speeds higher than those required for the careful and prudent operation of a vehicle as required by 61-8-303(1).

(2) The basic rule imposed by 61-8-303(1), requiring careful and prudent operation of a vehicle, does not authorize speeds higher than those established by the maximum numerical speed limits imposed under this part."

Insert: "NEW SECTION. **Section 11. Codification instruction.** (1) [Sections 3 and 10] are intended to be codified as an integral part of Title 61, chapter 8, part 3, and the provisions of Title 61, chapter 8, part 3, apply to [sections 3 and 10].

(2) [Section 4] is intended to be codified as an integral part of Title 61, chapter 8, part 7, and the provisions of Title 61, chapter 8, part 7, apply to [section 4]."

Insert: "NEW SECTION. **Section 12. Repealer.** Sections 61-8-304, 61-8-305, 61-8-306, 61-8-307, 61-8-718, and 61-11-103, MCA, are repealed."

- END -

SENATE HIGHWAYS
EXHIBIT NO. 4
DATE 1-26-99
BILL NO. SB 113

Amendments to SB 113
1st Reading Copy (White)

For the Senate Highways and Transportation Committee

Prepared by Brenda Nordlund
Department of Justice
January 26, 1998

1. Page 5, line 21
Following: "(3)"
Strike: "A"
Insert: "Except as provided in subsection 4(c), a"

2. Page 6, line 6
Following: "61-8-903,"
Strike: the remainder of the line through "part 5," on line 7

3. Page 6, line 8
Following: "term"
Insert: "or pay a fee of $ 300 in addition to the application and license fee required in subsection 3. A renewal applicant licensed as a motor vehicle wrecking facility under Title 75, chapter 10, part 5, is exempt from the minimum retail sales requirements of subsection 4(a), as well the additional renewal or the lower minimum sales requirements of this subsection."

4. Page 6, line 17
Following: "this"
Strike: "section"
Insert: "subsection 4(a)"

5. Page 8, line 6
Following: "governed by"
Strike: "61-4-103"
Insert: "[section 23]"

6. Page 17, line 23
Following: "under"
Strike: "61-4-103 or [section 7]"
Insert: "[sections 7 or 23]"

7. Page 29, line 6

Following: ""~~$25~~"
Strike: "$100"
Insert: "$25"

8. Page 41, lines 3-4
Following: "**Applicability.**"
Strike: "[Sections"
Insert: "(1) Except as provided in subsection (2), sections"

9. Page 41, line 5
Insert: "(2) Subsection (4)(a) and (d) of [section 6] does not apply to used car dealers licensed by the department on or before December 31, 1999."

MINUTES

MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON HIGHWAYS AND TRANSPORTATION

Call to Order: By **CHAIRMAN ARNIE MOHL**, on January 28, 1999 at 3:07 P.M., in Room 410 Capitol.

ROLL CALL

Members Present:

Sen. Arnie Mohl, Chairman (R)
Sen. Ric Holden, Vice Chairman (R)
Sen. Mack Cole (R)
Sen. Bob DePratu (R)
Sen. John Hertel (R)
Sen. Greg Jergeson (D)
Sen. Glenn Roush (D)
Sen. Debbie Shea (D)
Sen. Spook Stang (D)
Sen. Daryl Toews (R)

Members Excused: Sen. Reiny Jabs (R)

Members Absent: None.

Staff Present: Connie Erickson, Legislative Branch
Phoebe Olson, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 145, 1/28/1999
Executive Action: SB 89; SB 113; SB 156

Motion: SENATOR JERGESON moved to strike the word "seven" in line 1 following "the" and before Montana.

SENATOR STANG agreed with SENATOR JERGESON.

Vote: Motion **AMENDMENT carried unanimously. 10-0.**

SENATOR HOLDEN asked why the state would want to spend $36,000 plus to make new signs. **SENATOR STANG** replied the signs would show visitors the center is an official Montana State Information Center to distinguish them from others.

{Tape : 1; Side : B; Approx. Time Counter : 3:50}

SENATOR HOLDEN asked what would be the benefit in the distinction between the two signs. **SENATOR STANG** responded people would know the centers are official state information centers. He felt it is an appropriate use of the money.

Motion/Vote: **SEN. STANG** moved that **SB 89 DO PASS AS AMENDED. Motion carried unanimously. 10-0.**

EXECUTIVE ACTION ON SB 113

SENATOR DEPRATU declared he had a direct conflict of interest on the bill and he would refrain from discussion unless somebody wanted to ask him a question.

Motion: **SEN. SHEA** moved that **SB 113 BE AMENDED.**

Discussion:

Brenda Nordlund explained amendments.

SENATOR STANG asked if the grandfather clause is contained in the bill without this amendment and what does the grandfather title do. **Brenda Nordlund** replied there is not a grandfather other than through the applicability clause. **SENATOR STANG** asked if it will put those people already in there in any type of advantage over people who may want to get in there in the future. **Brenda Nordlund** stated yes, it means that the individuals who are currently there will not have to meet the minimum retails

thresholds that are otherwise in the bill unless the grandfather was removed.

SENATOR STANG asked if it would put the people who were grandfathered in, in a position where they could be more competitive in the market than somebody who wants to come into the market. **SENATOR DEPRATU** responded "no" basically when selling low numbers the seller is not an automobile dealer from the stand point of trying to make a living at it. There is no way anybody could conduct those sales, and that few, and be a viable business in this state. The only advantage is possibly giving a body shop or a wrecking yard the opportunity to sell fewer sales.

Vote: Motion that **AMENDMENT DO PASS carried unanimously. 10-0.**

Motion: **SEN. COLE** moved that **AMENDMENT DO PASS.**

Discussion:

SENATOR MOHL submitted and explained amendment.

SENATOR STANG asked if the amendment would prohibit people from going to the local county fair and selling RV's there. **SENATOR DEPRATU** stated dealers cannot go out of a county to a county fair. **SENATOR STANG** stated he felt if the committee was going to do this to the RV dealers in Montana, they should have had ample notice and there should have been a bill drafted specifically for that purpose. He stated he will oppose the amendment.

SENATOR HOLDEN agrees with Senator Stang.

SENATOR ROUSH stated he would vote against the amendment.

Vote: Motion **carried 7-3.**

Motion: **SEN. HOLDEN** moved that **AMENDMENT DO PASS.**

Discussion:

Brenda Nordlund explained amendment requested by Senator Holden.

SENATOR HOLDEN explained the reason for the amendment.

SENATOR COLE asked how the department will be notified. **Brenda Nordlund** stated the answer is on page 26 lines 5-9. It is part of the original application process. **SENATOR COLE** asked if this was a duplication. **Brenda Nordlund** replied it is not a duplicate. It is the difference from initially providing the information in an application format and the amendments strike another requirement that would have the insurance carrier also independently send a certificate proving insurance.

Vote: Motion **carried unanimously. 10-0.**

Motion: **SEN. SHEA** moved that **SB 113 DO PASS AS AMENDED.**

Discussion:

{Tape : 1; Side : B; Approx. Time Counter : 4:09}

SENATOR TOEWS stated and explained why he will vote against the bill.

SENATOR STANG asked if there was anything in this bill that will remedy a lemon law for used cars. **SENATOR DEPRATU** replied the one thing that is going to help is the reinforcing the used car sticker has to be in the window. The sticker notifies if the car is being sold as or whether there is a warranty with it.

SENATOR HOLDEN stated he is going to vote for the bill but wanted to note for the record he doesn't think the committee should hand out grandfather clauses that are going to hurt the people coming up in the business.

Vote: Motion **carried with Toews voting no. 9-1.**

EXECUTIVE ACTION ON SB 156

{Tape : 1; Side : B; Approx. Time Counter : 4:13}

Motion: **SEN. STANG** moved that **SB 156 DO NOT PASS.**

Discussion:

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **CHAIRMAN BRUCE SIMON**, on March 4, 1999 at 8:00 A.M., in Room 104 Capitol.

ROLL CALL

Members Present:

Rep. Bruce Simon, Chairman (R)
Rep. Bob Pavlovich, Vice Chairman (D)
Rep. Paul Sliter, Vice Chairman (R)
Rep. Joe Barnett (R)
Rep. Rod Bitney (R)
Rep. Sylvia Bookout-Reinicke (R)
Rep. David Ewer (D)
Rep. Carol C. Juneau (D)
Rep. Billie Krenzler (D)
Rep. Bob Lawson (R)
Rep. Gay Ann Masolo (R)
Rep. Gary Matthews (D)
Rep. Joe McKenney (R)
Rep. Carolyn Squires (D)
Rep. Jay Stovall (R)
Rep. Cliff Trexler (R)
Rep. Carley Tuss (D)

Members Excused: None.

Members Absent: Rep. Roy Brown (R)

Staff Present: Stephen Maly, Legislative Branch
Pati O'Reilly, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 68, SB 107, SB 108, SB 113, 2/20/1999
Executive Action: SB 68, SB 107, SB 296

EXECUTIVE ACTION ON SB 296

Motion/Vote: REP. MASOLO moved that SB 296 BE CONCURRED IN. Motion carried unanimously. Rep. Tuss to carry on house floor.
{Tape : 3; Side : B; Approx. Time Counter : 40 - 94}

EXECUTIVE ACTION ON SB 113

Motion: REP. SQUIRES moved that SB 113 BE CONCURRED IN.
{Tape : 3; Side : B; Approx. Time Counter : 94 - 100}

Motion/Vote: REP. SLITER moved that SB 113 BE AMENDED. Motion carried unanimously.
{Tape : 3; Side : B; Approx. Time Counter : 100 - 115}

Motion: REP. SQUIRES moved that SB 113 BE CONCURRED IN AS AMENDED.
{Tape : 3; Side : B; Approx. Time Counter : 115 - 120}

Motion: REP. SLITER moved that SB 113 BE AMENDED.
{Tape : 3; Side : B; Approx. Time Counter : 120 - 130}

Substitute Motion/Vote: REP. TREXLER made a substitute motion that SB 113 BE AMENDED. Substitute motion failed 7-10 with Bookout, Pavlovich, Trexler, Juneau, Krenzler, Squires, and Tuss voting aye.
{Tape : 3; Side : B; Approx. Time Counter : 130 - 145}

Substitute Motion/Vote: REP. SLITER made a substitute motion that SB 113 BE AMENDED. Substitute motion failed 5-11 with Barnett, McKenney, Simon, Sliter, and Stovall voting aye.
{Tape : 3; Side : B; Approx. Time Counter : 145 - 290}

Discounted executive action on SB 113.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **CHAIRMAN BRUCE SIMON**, on March 10, 1999 at 8:00 A.M., in Room 104 Capitol.

ROLL CALL

Members Present:

Rep. Bruce Simon, Chairman (R)
Rep. Bob Pavlovich, Vice Chairman (D)
Rep. Paul Sliter, Vice Chairman (R)
Rep. Joe Barnett (R)
Rep. Sylvia Bookout-Reinicke (R)
Rep. Roy Brown (R)
Rep. David Ewer (D)
Rep. Carol C. Juneau (D)
Rep. Billie Krenzler (D)
Rep. Bob Lawson (R)
Rep. Gay Ann Masolo (R)
Rep. Gary Matthews (D)
Rep. Joe McKenney (R)
Rep. Carolyn Squires (D)
Rep. Jay Stovall (R)
Rep. Cliff Trexler (R)
Rep. Carley Tuss (D)

Members Excused: None.

Members Absent: Rep. Rod Bitney (R)

Staff Present: Stephen Maly, Legislative Branch
Pati O'Reilly, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 217, SB 229, SB 245, SB 305, SB 466 (3/3/99), 4/2/1999
Executive Action: SB 245, SB 466, SB 103, SB 272, SB 113

Motion/Vote: REP. KRENZLER moved that SB 103 BE AMENDED. Motion carried unanimously.
{Tape : 3; Side : B; Approx. Time Counter : 390 - 395}

Motion/Vote: REP. KRENZLER moved that SB 103 BE CONCURRED IN AS AMENDED. Motion carried unanimously.
{Tape : 3; Side : B; Approx. Time Counter : 395 - 470}

EXECUTIVE ACTION ON SB 272

Motion: REP. PAVLOVICH moved that SB 272 BE CONCURRED IN.
{Tape : 3; Side : B; Approx. Time Counter : 470 - 490}

Motion/Vote: REP. PAVLOVICH moved that SB 272 BE AMENDED. Motion carried unanimously.
{Tape : 3; Side : B; Approx. Time Counter : 490 - 495}

Motion: REP. PAVLOVICH moved that SB 272 BE CONCURRED IN AS AMENDED.
{Tape : 3; Side : B; Approx. Time Counter : 495 - 500}

Motion/Vote: REP. EWER moved that SB 272 BE AMENDED. Motion failed 1-17 with Ewer voting aye.
{Tape : 4; Side : A; Approx. Time Counter : 0 - 9}

Motion/Vote: REP. PAVLOVICH moved that SB 272 BE CONCURRED IN AS AMENDED. Motion carried 17-1 with Brown voting no.
{Tape : 4; Side : A; Approx. Time Counter : 9 - 43}

EXECUTIVE ACTION ON SB 113

Motion: REP. SLITER moved that SB 113 BE CONCURRED IN AS AMENDED.
{Tape : 4; Side : A; Approx. Time Counter : 43 - 60}

Motion/Vote: REP. SLITER moved that SB 113 BE AMENDED. #2,5,6,7,8 and 9. Motion carried 13-4 with Ewer, Lawson, Pavlovich, and Squires voting no.
{Tape : 4; Side : A; Approx. Time Counter : 60 - 75}

Motion/Vote: REP. SLITER moved that SB 113 BE AMENDED.
{Tape : 4; Side : A; Approx. Time Counter : 75 - 94}

Substitute Motion/Vote: REP. TREXLER made a substitute motion that **SB 113 BE AMENDED. Substitute motion carried unanimously.** *{Tape : 4; Side : A; Approx. Time Counter : 94 - 100}*

Motion/Vote: **REP. SLITER** moved that **SB 113 BE CONCURRED IN AS AMENDED. Motion carried 16-1 with Pavlovich voting no.** *{Tape : 4; Side : A; Approx. Time Counter : 100 - 129}*

CONFERENCE COMMITTEE

on House amendments to Senate Bill 113
Report No. 1, March 19, 1999

Mr. President and Mr. Speaker:

We, your Conference Committee met and considered House amendments to **Senate Bill 113** (reference copy -- salmon) and recommend this Conference Committee report be adopted.

For the Senate:

Chair

Chair

Amendment Coordinator

Secretary of Senate

For the House:

68

11

15

And, recommend that **Senate Bill 113** (reference copy -- salmon) be amended as follows:

1. Page 31, line 22.
Following: "~~spouse,~~"
Insert: "the dealer's spouse,"

- END -

SB 113
AC SB 113-1

ADOPT

REJECT

621325CC.srf

AN ACT GENERALLY REVISING THE LAWS GOVERNING THE LICENSING OF DEALERS AND WHOLESALERS OF MOTOR VEHICLES, RECREATIONAL VEHICLES, MOTORCYCLES, QUADRICYCLES, TRAILERS, AND SPECIAL MOBILE EQUIPMENT BY THE DEPARTMENT OF JUSTICE; DEFINING THE TERMS "NEW MOTOR VEHICLE", "ESTABLISHED PLACE OF BUSINESS", AND "RETAIL SALE"; AUTHORIZING COMPLIANCE SPECIALISTS DESIGNATED BY THE DEPARTMENT AND TRAINED AS PEACE OFFICERS TO ISSUE CITATIONS FOR VIOLATIONS OF DEALER LAWS AND CERTAIN VEHICLE TITLE AND REGISTRATION LAWS; REQUIRING DEALERS TO DISPLAY ON A SALES LOT NEW OR USED MOTOR VEHICLES BEARING EITHER A MONRONEY LABEL OR BUYER'S GUIDE LABEL AS APPROPRIATE; REQUIRING DEALERS TO INSTALL AND MAINTAIN LISTED TELEPHONE SERVICE AND TO POST WRITTEN NOTICE OF REGULAR AND CUSTOMARY BUSINESS HOURS AT THE DEALER'S ESTABLISHED PLACE OF BUSINESS; REQUIRING DEALERS AND WHOLESALERS TO MAINTAIN GARAGE KEEPERS LIABILITY INSURANCE; CLARIFYING THE DUTY OF AN APPLICANT FOR A DEALER'S LICENSE TO DISCLOSE FELONY OFFENSES FOR WHICH A DETERMINATION OF GUILT WAS MADE AND TO SUMMARIZE CONDUCT GIVING RISE TO THE CHARGE; REQUIRING DEALER'S LICENSE OR WHOLESALER'S LICENSE APPLICANTS TO PROVIDE CERTAIN INFORMATION ABOUT GARAGE KEEPERS LIABILITY COVERAGE OBTAINED BY THE APPLICANT; CONDITIONING USED MOTOR VEHICLE DEALER LICENSE RENEWAL ON A MINIMUM OF 12 RETAIL SALES OF USED MOTOR VEHICLES IN A PRIOR LICENSE TERM; RETAINING SEPARATE LICENSE RENEWAL REQUIREMENTS FOR A USED MOTOR VEHICLE DEALER WHO IS ALSO A QUALIFIED TOW TRUCK OPERATOR OR A LICENSED MOTOR VEHICLE WRECKING FACILITY; DENYING LICENSE RENEWAL TO USED MOTOR VEHICLE DEALERS WHO FAIL TO MEET MINIMUM RETAIL SALES REQUIREMENTS IN THE PRECEDING LICENSE YEAR AND WITHHOLDING DEALER LICENSE ELIGIBILITY FROM THOSE DEALERS FOR THE SUCCEEDING 12-MONTH PERIOD; EXEMPTING USED MOTOR VEHICLE DEALERS LICENSED BY THE DEPARTMENT OF JUSTICE ON OR BEFORE DECEMBER 31, 1999, FROM THE MINIMUM RETAIL SALES REQUIREMENTS FOR LICENSE RENEWAL; CONDITIONING WHOLESALER'S LICENSE RENEWAL ON A MINIMUM OF 12 SALES OF VEHICLES OF THE TYPE AUTHORIZED UNDER THE LICENSE TO A LICENSED DEALER, AUTO

AUCTION, OR ANOTHER WHOLESALER IN THE PRECEDING LICENSE YEAR; DENYING LICENSE RENEWAL TO WHOLESALERS WHO FAIL TO MEET MINIMUM SALES REQUIREMENTS IN THE PRECEDING LICENSE YEAR AND WITHHOLDING WHOLESALER LICENSE ELIGIBILITY FROM THOSE WHOLESALERS FOR THE SUCCEEDING 12-MONTH PERIOD; CLARIFYING THE DEFINITION OF DEALER TO INCLUDE THE BUSINESS OF ACCEPTING VEHICLES ON CONSIGNMENT AND OTHERWISE BUYING, SELLING, EXCHANGING, OR ACTING AS A BROKER OF VEHICLES NOT TITLED AND REGISTERED IN THE DEALER'S NAME; EXTENDING ABATEMENT OF VEHICLE TAXES ON PROPERLY REPORTED DEALER INVENTORY TO TRANSFERS TO OR FROM OTHER MONTANA-LICENSED DEALERS, WHOLESALERS, OR AUTO AUCTIONS PRIOR TO RETAIL SALE; REDUCING CERTAIN DEALER LICENSE FEES; CODIFYING THE CURRENT FEE CHARGED FOR DEMONSTRATOR PLATES; AMENDING SECTIONS 20-7-514, 61-1-132, 61-1-314, 61-3-101, 61-3-103, 61-3-206, 61-3-301, 61-3-432, 61-3-501, 61-3-502, 61-3-508, 61-3-602, 61-4-101, 61-4-102, 61-4-104, 61-4-105, 61-4-107, 61-4-108, 61-4-120, 61-4-205, AND 61-10-214, MCA; REPEALING SECTION 61-4-103, MCA; AND PROVIDING EFFECTIVE DATES AND AN APPLICABILITY DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Established place of business. (1) "Established place of business" means the geographic location upon which a permanent building is located that is actually occupied either continuously or at regular periods by a dealer. A building is actually occupied by a dealer if the dealer's books and records are kept in the building, and except for approved off-premises sales, the dealer's business is transacted within the building.

(2) A dealer's established place of business may also include the geographic location of one or more physical lots upon which vehicles are displayed for sale, as long as the requirements of 61-4-101(4)(d) regulating the distance between display lots and the recordkeeping building are met.

(3) The geographic location of the permanent building actually occupied by the dealer or the geographic location of the physical lots upon which vehicles are displayed for sale may be identified by street address, legal description, or other reasonably identifiable description, as prescribed by the department.

Section 2. New motor vehicle. "New motor vehicle" means a motor vehicle, regardless of the mileage of the vehicle, the legal or equitable title to which has never been transferred by a manufacturer, distributor, or dealer to another person as the result of a retail sale.

Section 3. Retail sale. (1) "Retail sale" means the sale of a new motor vehicle or used motor vehicle, a recreational vehicle, a trailer, a motorcycle, a quadricycle, or special mobile equipment by a dealer to a person for purposes other than resale.

(2) For purposes of chapter 4, part 1, of this title, "retail sale" does not mean a sale that is the result of a transfer between a dealer, wholesaler, or auto auction and another dealer, wholesaler, or auto auction.

Section 4. Compliance specialists as peace officers. (1) The department may designate and train civilian employees as compliance specialists within the motor vehicle division. Each compliance specialist is a peace officer whose jurisdiction is limited to enforcement of violations of Title 61, chapter 3, parts 1, 2, 3, 4, and 6 and chapter 4.

(2) As a peace officer, a trained compliance specialist may:

(a) issue citations and make arrests;

(b) issue summonses;

(c) accept bail;

(d) serve warrants of arrest;

(e) make reasonable inspections of a dealer's established place of business and vehicle inventory; and

(f) require production of documents relating to the sale, purchase, exchange, or consignment of any vehicle currently or previously in a dealer's inventory or displayed for sale by the dealer or relating to any obligation imposed on a dealer under this title.

(3) For purposes of this section, the term "dealer" includes a dealer of any vehicle type, a wholesaler, or an auto auction, subject to licensure by the department under this chapter.

Section 5. Dealer requirements and restrictions. (1) A dealer may not offer for sale, trade, or consignment any vehicle type not authorized by the license issued to the dealer by the department or use a dealer or demonstrator plate on a vehicle of a type for which the dealer is not licensed.

(2) A dealer may not exhibit at the dealer's established place of business or any approved off-premises sale location, a vehicle for sale, trade, or consignment unless the Monroney label required for new motor vehicles pursuant to 15 U.S.C. 1232 or the buyer's guide label required for used motor vehicles pursuant to 16 CFR, part 455, is affixed to the side window of the vehicle or is conspicuously displayed within the vehicle in a fashion that is readily readable by a customer.

(3) A dealer may not sell vehicles from a geographic location other than that of the dealer's established place of business as listed on the dealer's license unless the dealer notifies the department 10 days in advance, on a form prescribed by the department, of the opening date and location of an off-premises sale. Except for recreational vehicle dealers, an off-premises sale must be conducted within the city limits of the city of the dealer's licensed location or upon an adjacent off-premises site that is approved by the department and that is within the county of the dealer's licensed location. The sale may not exceed 10 consecutive business days, and a licensed dealer may not conduct more than 10 off-premises sales during any 1 calendar year.

(4) If more than one dealer displays vehicles and maintains an established place of business at the same geographic location, each dealer shall ensure that all vehicle records, office facilities, and inventory, if applicable, are physically segregated from those of the other dealer and clearly identified and attributed to the appropriate dealer.

(5) A dealer shall install and maintain telephone service at the dealer's established place of business. The telephone service must be listed in the directory assistance that applies to the area in which the business is located.

(6) A dealer shall conspicuously post at the dealer's established place of business written notice indicating the regular and customary office hours maintained by the dealer.

(7) (a) It is the responsibility of the dealer to ensure that a lapse in required garage keepers legal liability insurance does not occur as a result of cancellation or termination of a previously certified policy.

(b) This subsection (7) does not relieve a dealer of the mandatory vehicle liability insurance obligation imposed under chapter 6 of this title.

(8) A dealer shall display at the dealer's established place of business at least one sign stating the name of the business and indicating that vehicles are offered for sale, trade, or consignment. The letters of the sign must be at least 6 inches in height and clearly visible and readable to the major avenue of traffic at a minimum distance of 150 feet.

Section 6. License renewal -- fee -- dealer license suspension. (1) On or before December 31 of each year, a dealer shall apply to the department for renewal of the dealer's license for an additional 1 year period.

(2) (a) To qualify for renewal, a dealer shall submit a completed application, in a form prescribed by the department, updating prior submitted information concerning owner identity, other ownership interest, felony conduct, garage keeper liability insurance, and surety bond filings, as originally required under 61-4-101, and providing any other relevant information requested by the department.

(b) The department may also require a renewal applicant to submit one or more current photographs of the dealer's established place of business or the signage for the business.

(c) If a dealer seeks to change the geographic location of the dealer's established place of business, the dealer shall also provide information concerning local land use planning, zoning, and business permitting compliance, if applicable, and a diagram or plat for the proposed location, consistent with the requirements of 61-4-101.

(3) Except as provided in subsection (4)(c), a license renewal application must be accompanied by a $5 application fee and one or more of the following license fees, depending on the type of license renewal being sought:

(a) $25 for a new motor vehicle, used motor vehicle, new recreational vehicle, or used recreational vehicle dealer's license; and

(b) $25 for a motorcycle or trailer dealer's license.

(4) (a) Except as provided in subsections (4)(b) and (4)(c), a used motor vehicle dealer seeking license renewal shall also certify, under penalty of law, to the retail sale of 12 or more used motor vehicles during the expiring license term. A used motor vehicle dealer licensed for less than a full calendar year in the expiring license term shall certify, under penalty of law, to the retail sale of an average of at least one used motor vehicle a calendar month or portion of a calendar month, for which the expiring

license was in effect.

(b) The minimum retail sales requirements of this subsection do not apply to a dealer seeking to renew a used motor vehicle dealer's license and either a new motor vehicle dealer license or a new recreational vehicle dealer license.

(c) (i) To qualify for renewal, a used motor vehicle dealer who is also a qualified tow truck operator, as defined in 61-8-903, shall certify, under penalty of law, to the retail sale of five or more used motor vehicles during the expiring license term or pay a fee of $25 in addition to the application and license fee required in subsection (3).

(ii) A renewal applicant licensed as a motor vehicle wrecking facility under Title 75, chapter 10, part 5, is exempt from the minimum retail sales requirements of subsection (4)(a), as well as the additional renewal or the lower minimum sales requirements of this subsection.

(iii) If a used motor vehicle dealer also qualified as a tow truck operator loses the status of a qualified tow truck operator under 61-8-903, the dealer's license may be retained for the remainder of the license term, but after the current term, the dealer is subject to the retail sales requirements of subsection (4)(a).

(iv) If a used motor vehicle dealer also licensed as a motor vehicle wrecking facility ceases to do business as a wrecking facility and surrenders the wrecking facility license to the department of environmental quality, the dealer license may be retained for the remainder of the license term, but after the current term, the dealer is subject to the retail sales requirements of subsection (4)(a).

(d) A dealer who fails to meet the retail sales requirements for license renewal under subsection (4)(a) is not eligible for license renewal and may not submit an application for another used motor vehicle dealer's license or a wholesaler's license for a period of 12 months from the expiration of the dealer's most recent license term.

(5) A dealer whose completed renewal application is received by the department on or before December 31 of the expiring license term may, if necessary, continue dealership operations and display or use dealer or demonstrator plates under the expired license through February 15 of the following year.

Section 7. Wholesaler's license. (1) (a) The department is authorized to issue a wholesaler's license to any person that it determines is qualified to hold a license under the provisions of this section.

(b) A wholesaler is authorized to sell used motor vehicles, used recreational vehicles, trailers, motorcycles, quadricycles, or special mobile equipment. However, a wholesaler may sell a vehicle only to a dealer, an auto auction, or another wholesaler. Retail sale of vehicles by a wholesaler is not allowed.

(c) A wholesaler's license issued by the department has a term of 1 calendar year, commencing on or after January 1 in the year of issue and expiring on December 31 of the same year.

(d) The department shall design and issue wholesaler demonstrator plates, of a similar sequence to demonstrator plates issued to dealers but that conspicuously display the term "wholesaler" or the abbreviation "W".

(2) To qualify for a wholesaler's license, an applicant shall submit a completed application, in a form prescribed by the department, that provides the following:

(a) the name under which the applicant intends to conduct business and the name, address, date of birth, and social security number of any person who possesses or will possess an ownership interest in the business for which the license is sought. If the applicant is a corporation, the personal information required in this subsection (2)(a) must be provided for each corporate officer and the person designated by the corporation to manage or oversee the dealership;

(b) for each person subject to the provisions of subsection (2)(a) whether the person has:

(i) an ownership interest in a vehicle dealership or wholesaler business in Montana or another jurisdiction and if so, the name and address of each dealership or wholesaler; and

(ii) been found guilty of, or pleaded guilty to, a felony in this or any other jurisdiction, and if so, provide a summary of the conduct giving rise to the felony charge, including the dates of the conduct and any judicial proceeding pertaining to the conduct, and the name and address of any court in which the matter was heard;

(c) the name, address, and telephone number of the insurance carrier from whom the applicant has acquired garage keepers liability insurance and the name, address, and telephone number of the local insurance agent for the carrier and the applicant's policy number. The insurance must cover any vehicle bearing a wholesaler demonstrator plate that is offered for demonstration or loan to, or otherwise operated by, a customer in the regular course of the applicant's business;

(d) the street address of the permanent nonresidential building or office where business records will be kept and available for inspection by the department; and

(e) a bond of $25,000 filed with the department on behalf of the applicant. The bond must be conditioned that the applicant shall conduct business in accordance with the requirements of the law. The bond must be approved by the department and subject to annual renewal.

(3) The application fee for a wholesaler's license is $5, and the license fee is $25. Both fees must accompany an original or renewal wholesaler's license application.

(4) Wholesalers may not be issued or use dealer plates, as provided in 61-4-102. However, a wholesaler may be issued and is authorized to display and use a wholesaler demonstrator plate on any type of vehicle that a wholesaler is authorized to sell. The fee for a wholesaler demonstrator plate is $3. To the extent not inconsistent with this section, use of wholesaler demonstrator plates is otherwise governed by [section 23].

(5) (a) A wholesaler license must be renewed annually, and application for renewal must be filed on or before December 31 of the expiring license term.

(b) To qualify for renewal of a wholesaler's license, a wholesaler must submit a completed application, in a form prescribed by the department, updating prior submitted information, as originally supplied under subsection (2).

(c) Additionally, the wholesaler shall certify, under penalty of law, that 12 or more vehicles of the type authorized under the license were sold by the wholesaler to a dealer, auto auction, or another wholesaler during the expiring license term. A wholesaler who was licensed for less than a full calendar year in the expiring term shall certify, under penalty of law, to the sale of an average of at least one vehicle a calendar month, or portion of a calendar month, during which the expiring license was in effect.

(d) A wholesaler who fails to meet the sales requirements for license renewal under this section is not eligible for license renewal and may not submit an application for another wholesaler's license or a used motor vehicle dealer's license for a period of 12 months from the expiration of the wholesaler's most recent license term.

(6) A wholesaler whose completed renewal application has been received by the department on or before December 31 of the expiring license term may, if necessary, operate the business and display wholesaler demonstrator plates under the expired license through February 15 of the following year.

Section 8. Claims against dealer, wholesaler, or auto auction bonds. (1) A person who suffers

loss or damage due to the unlawful conduct of a dealer, wholesaler, or auto auction licensed under this title shall obtain a judgment from a court of competent jurisdiction prior to collecting on the bond of the dealer, wholesaler, or auto auction. The judgment must set out a specific loss or damage amount and establish that the licensee's unlawful conduct caused the loss or damage, before payment on the bond is required.

(2) If claim is made on a bond by two or more persons who have obtained a judgment against a dealer, wholesaler, or auto auction based on the unlawful conduct of the dealer, wholesaler, or auto auction and the judgments in the aggregate exceed the amount of the bond, the proceeds of the bond must be divided between or among the claimants on a pro rata basis.

Section 9. Section 20-7-514, MCA, is amended to read:

"**20-7-514. Motorcycle registration fee -- exemptions.** (1) A motorcycle safety training fee of $5 must be assessed on each motorcycle required by 61-3-301 to be registered for licensing.

(2) The county treasurer shall collect the fee and remit the fee to the state treasurer for deposit in the state traffic education account, as provided in 20-7-504.

(3) Exempt from payment of the fee specified in subsection (1) are vehicles:

(a) leased or owned by the state or a county or municipality;

(b) used for transportation by a nonresident or migratory worker temporarily employed in agricultural work in this state; or

(c) displaying dealer or wholesaler plates, as provided in ~~61-4-103~~ 61-4-102 and [section 7], while owned by a dealer or wholesaler."

Section 10. Section 61-1-132, MCA, is amended to read:

"**61-1-132. Recreational vehicle.** The term "recreational vehicle" as used in ~~61-4-101 through 61-4-105~~ chapter 4, part 1, of this title and 61-10-141 includes travel trailers as defined in 61-1-131, motor homes as defined in 61-1-130, and other self-propelled vehicles originally designed or permanently altered to provide temporary facilities for recreational, travel, or camping use."

Section 11. Section 61-1-314, MCA, is amended to read:

"**61-1-314. Dealer.** (1) "Dealer" means:

(a) a person, firm, association, or corporation that, for commission or profit, engages in whole or in part in the business of buying, selling, exchanging, accepting on consignment, or acting as a broker of ~~either~~ new motor vehicles or used motor vehicles~~, or both, and that qualifies for issuance of a dealer's license under 61-4-101 through 61-4-105~~ for which a certificate of ownership has not been issued and that are not registered in the name of the person, firm, association, or corporation and for whom a dealer license is required under chapter 4 of this title;

(b) an owner of real property who allows more than three new or used motor vehicles not titled in the property owner's or the seller's name to be offered for sale on the property during 1 calendar year unless the property is leased to a motor vehicle dealer licensed under 61-4-101 and the vehicles offered for sale are bona fide units of the licensed dealer's inventory; or

(c) an owner of a motor vehicle that is offered for sale and is displayed on real property in which the motor vehicle owner does not have a legal interest, and the primary purpose for displaying the motor vehicle on the real property is to effect the sale of the motor vehicle.

(2) The term "dealer" does not include the following:

(a) receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under a judgment or order of any court of competent jurisdiction;

(b) employees of the persons included in subsection (2)(a) when engaged in the specific performance of their duties as employees;

(c) public officers while performing or in the operation of their duties;

(d) a motor vehicle owner who obtains the written consent of the real property owner, lessee, or agent of the owner or lessee on whose property the motor vehicle is displayed and who posts the written consent or a copy of the written consent in the front or rear window of the motor vehicle; or

(e) a person who attempts to effect a sale of the person's motor vehicle by displaying the motor vehicle on a public street or public area that abuts real property in which the person has a legal interest."

Section 12. Section 61-3-101, MCA, is amended to read:

"**61-3-101. Duties of department -- records.** (1) The department shall keep a record as specified in this section of all motor vehicles, trailers, and semitrailers of every kind, of certificates of registration

and ownership of those vehicles, and of all manufacturers and dealers in motor vehicles.

(2) The record must show the ~~following~~:

(a) name of the owner, the residence address by street or rural route, town, and county, and the mailing address if different than the residence address;

(b) name and address of conditional sales vendor, mortgagee, or other lienholder and the amount due under contract or lien;

(c) manufacturer of the vehicle;

(d) manufacturer's designation of style of the vehicle;

(e) identifying number;

(f) year of manufacture;

(g) character of motive power and the shipping weight of the vehicle as shown by the manufacturer;

(h) ~~the~~ distinctive license number assigned to the vehicle, if any;

(i) if a truck or trailer, the number of tons' capacity or GVW if imprinted on manufacturer's identification plate;

(j) except as provided in 61-3-103, the name and complete address of any holder of a perfected security interest in the vehicle; and

(k) other information that may from time to time be found desirable.

(3) The department shall file applications for registration received by it from county treasurers and register the vehicles and the vehicle owners as follows:

(a) under the distinctive license number assigned to the vehicle by the county treasurer;

(b) alphabetically under the name of the owner;

(c) numerically under make and identifying number of the vehicle; and

(d) under another index of registration as the department considers expedient.

(4) The department shall determine the amount of motor vehicle taxes and fees to be collected at the time of registration for each light vehicle subject to tax under 61-3-503 and for each bus, truck having a manufacturer's rated capacity of more than 1 ton, and truck tractor subject to a fee in lieu of tax under 61-3-528 and 61-3-529. The county treasurer shall collect the taxes and fees on each motor vehicle at the time of its registration.

(5) Vehicle registration records and indexes and driver's license records and indexes may be maintained by electronic recording and storage media.

(6) In the case of dealers, the records must show the information contained in the application for a dealer's, wholesaler's, or auto auction license as required by ~~61-4-101 through 61-4-105~~ chapter 4, parts 1 and 2 of this title, as well as the distinctive license number assigned to the dealer.

(7) In order to prevent an accumulation of unneeded records and files, regardless of any other statutory requirements, the department may destroy all records and files that relate to vehicles that have not been registered within the preceding 4 years and that do not have an active lien.

(8) All records must be open to inspection during reasonable business hours, and the department shall furnish any information from the records upon payment by the applicant of the cost of the information requested. Prior to providing the information, the department may require the applicant to provide identification. However, the department may, by rule, reasonably restrict disclosure of information on an owner or the owner's vehicle if the owner has requested in writing that the department not disclose the information."

Section 13. Section 61-3-103, MCA, is amended to read:

"**61-3-103. (Temporary) Filing of security interests -- perfection -- rights -- procedure -- fees.** (1) Except as provided in 61-3-109, the department may not file any voluntary security interest or lien unless it is accompanied by or specified in the application for a certificate of ownership of the vehicle encumbered. If the approved notice form is transmitted to the department, the security agreement or other lien instrument that creates the security interest must be retained by the secured party. A copy of the security agreement is sufficient as a lien notice if it contains the name and address of the debtor and the secured party, the complete vehicle description, and the amount of the lien and is signed by the debtor. The department shall file voluntary security interests and liens by entering the name and address of the secured party upon the face of the certificate of ownership. Involuntary liens must be filed against the record of the vehicle encumbered. The department shall mail a statement certifying to the filing of a security interest or lien to the secured party. The department shall mail the certificate of ownership to the owner at the address given on the certificate; however, if the transfer of ownership and filing of the security interest are paid for by a creditor or secured party, the department shall return the certificate of

ownership to the county treasurer in the county in which the vehicle is to be registered. The owner of a motor vehicle is the person entitled to operate and possess the motor vehicle.

(2) A security interest in a motor vehicle held as inventory by a dealer licensed under ~~the provisions of 61-4-101~~ chapter 4 of this title must be perfected in accordance with Title 30, chapter 9.

(3) Whenever a security interest or lien is filed against a motor vehicle that is subject to two security interests previously perfected under this section, the department shall endorse on the face of the certificate of ownership, "NOTICE. This motor vehicle is subject to additional security interests on file with the Department of Justice." Other information regarding the additional security interests need not be endorsed on the certificate.

(4) Satisfactions or statements of release filed with the department under this chapter must be retained by it for a period of 8 years after receipt, after which they may be destroyed.

(5) Except as provided in 61-3-109 and subsection (6) of this section, a voluntary security interest or lien is perfected on the date that the lien notice and the certificate of ownership or manufacturer's statement of origin are delivered to the county treasurer. On that date, the county treasurer shall issue to the secured party a receipt evidencing the perfection. Perfection under this section constitutes constructive notice to subsequent purchasers or encumbrancers, from the date of delivery of the lien notice to the county treasurer, of the existence of the security interest.

(6) Except as provided in 61-3-109, voluntary security interests or lien filings that do not require transfer of ownership are perfected on the date that the lien notice and the certificate of ownership or manufacturer's statement of origin are received by the department. On that date, the department shall issue to the secured party a receipt evidencing the perfection. Perfection under this subsection constitutes constructive notice to subsequent purchasers or encumbrancers, from the date that the lien notice is delivered to the department, of the existence of the security interest.

(7) Upon default under a chattel mortgage or conditional sales contract covering a motor vehicle, the mortgagee or vendor has the same remedies as in the case of other personal property. In case of attachment of motor vehicles, all the provisions of 27-18-413, 27-18-414, and 27-18-804 are applicable except that deposits must be made with the department.

(8) A conditional sales vendor or chattel mortgagee or assignee who fails to file a satisfaction of a chattel mortgage, assignment, or conditional sales contract within 15 days after receiving final payment

is required to pay the department the sum of $1 for each day that the person fails to file the satisfaction.

(9) Upon receipt of notice of any involuntary liens or attachments against the record of any motor vehicle registered in this state, the department shall within 24 hours mail to the owner, conditional sale vendor, mortgagees, or assignees of the owner, conditional sale vendor, or mortgagees a notice showing the name and address of the lien claimant, the amount of the lien, the date of execution of the lien, and, in the case of attachment, the full title of the court and the action and the names of the attorneys for the plaintiff and attaching creditor.

(10) It is not necessary to refile with the department any instruments on file in the offices of the county clerk and recorders at the time that this law takes effect.

(11) A fee of $4 must be paid to the department to file any security interest or other lien against a motor vehicle. The $4 fee includes the cost of filing a satisfaction or release of the security interest and also the cost of entering the satisfaction or release on the records of the department and of deleting the endorsement of the security interest from the face of the certificate of ownership. A fee of $4 must be paid to the department for issuing a certified copy of a certificate of ownership subject to a security interest or other lien on file in the office of the department or for filing an assignment of any security interest or other lien on file with the department. All fees provided for in this section must be paid to the county treasurer for deposit in the state general fund in accordance with 15-1-504. (Terminates June 30, 2000--sec. 4, Ch. 90, L. 1997.)

61-3-103. (Effective July 1, 2000) Filing of security interests, perfection, rights, procedure, fees. (1) The department may not file any voluntary security interest or lien unless it is accompanied by or specified in the application for a certificate of ownership of the vehicle encumbered. If the approved notice form is transmitted to the department, the security agreement or other lien instrument that creates the security interest must be retained by the secured party. A copy of the security agreement is sufficient as a lien notice if it contains the name and address of the debtor and the secured party, the complete vehicle description, amount of lien, and is signed by the debtor. The department shall file voluntary security interests and liens by entering the name and address of the secured party upon the face of the certificate of ownership. Involuntary liens must be filed against the record of the vehicle encumbered. The department shall mail a statement certifying to the filing of a security interest or lien to the secured party. The department shall mail the certificate of ownership to the owner at the address given on the

certificate; however, if the transfer of ownership and filing of the security interest are paid for by a creditor or secured party, the department shall return the certificate of ownership to the county treasurer where the vehicle is to be registered. The owner of a motor vehicle is the person entitled to operate and possess the motor vehicle.

(2) A security interest in a motor vehicle held as inventory by a dealer licensed under ~~the provisions of 61-4-101~~ chapter 4 of this title, must be perfected in accordance with Title 30, chapter 9.

(3) Whenever a security interest or lien is filed against a motor vehicle that is subject to two security interests previously perfected under this section, the department shall endorse on the face of the certificate of ownership, "NOTICE. This motor vehicle is subject to additional security interests on file with the Department of Justice." ~~No other~~ Other information regarding ~~such~~ the additional security interests need not be endorsed on the certificate.

(4) Satisfactions or statements of release filed with the department under this chapter must be retained by it for a period of 8 years after receipt, after which they may be destroyed.

(5) Except as provided in subsection (6), a voluntary security interest or lien is perfected on the date the lien notice and the certificate of ownership or manufacturer's statement of origin are delivered to the county treasurer. On that date, the county treasurer shall issue to the secured party a receipt evidencing the perfection. Perfection under this section constitutes constructive notice to subsequent purchasers or encumbrancers, from the date of delivery of the lien notice to the county treasurer, of the existence of the security interest.

(6) Voluntary security interests or lien filings that do not require transfer of ownership are perfected on the date the lien notice and the certificate of ownership or manufacturer's statement of origin are received by the department. On that date, the department shall issue to the secured party a receipt evidencing the perfection. Perfection under this subsection constitutes constructive notice to subsequent purchasers or encumbrancers, from the date the lien notice is delivered to the department, of the existence of the security interest.

(7) Upon default under a chattel mortgage or conditional sales contract covering a motor vehicle, the mortgagee or vendor has the same remedies as in the case of other personal property. In case of attachment of motor vehicles all the provisions of 27-18-413, 27-18-414, and 27-18-804 are applicable except that deposits must be made with the department.

(8) A conditional sales vendor or chattel mortgagee or assignee who fails to file a satisfaction of a chattel mortgage, assignment, or conditional sales contract within 15 days after receiving final payment is required to pay the department the sum of $1 for each day that the person fails to file such satisfaction.

(9) Upon receipt of notice of any involuntary liens or attachments against the record of any motor vehicle registered in this state, the department shall within 24 hours mail to the owner, conditional sale vendor, mortgagees, or assignees of any ~~thereof~~ owner, conditional sale under, or mortgagees a notice showing the name and address of the lien claimant, amount of the lien, date of execution of lien, and in the case of attachment the full title of the court and the action and the name of the attorneys for the plaintiff and attaching creditor.

(10) It is not necessary to refile with the department any instruments on file in the offices of the county clerk and recorders at the time this law takes effect.

(11) A fee of $4 must be paid to the department to file any security interest or other lien against a motor vehicle. The $4 fee ~~shall~~ must include and cover the cost of filing a satisfaction or release of the security interest and also the cost of entering ~~such~~ the satisfaction or release on the records of the department and deleting the endorsement of the security interest from the face of the certificate of ownership. A fee of $4 must be paid to the department for issuing a certified copy of a certificate of ownership subject to a security interest or other lien on file in the office of the department or for filing an assignment of any security interest or other lien on file with the department. All fees provided for in this section must be paid to the county treasurer for deposit in the state general fund in accordance with 15-1-504."

Section 14. Section 61-3-206, MCA, is amended to read:

"**61-3-206. Odometer disclosure requirements on transfer of vehicle -- dealer to preserve record.** (1) Except as provided in subsection (3), before executing any transfer of ownership document relating to a motor vehicle, each seller of a motor vehicle shall record on the certificate of ownership the odometer reading at the time of transfer or, if the certificate of ownership does not provide for the recording of the odometer reading, furnish to the purchaser a written statement that is signed by the seller, who shall also print ~~his~~ the seller's name on the written statement, and that contains the following information:

(a) the odometer reading at the time of transfer;

(b) the date of transfer;

(c) the seller's name and current address;

(d) the purchaser's name and current address;

(e) the vehicle year, make, model, body style, and identification number;

(f) one of the following statements or certification:

(i) a certification by the seller that, to the best of ~~his~~ the seller's knowledge, the odometer reading reflects the actual miles or kilometers the vehicle has been driven;

(ii) if the seller knows that the odometer reading reflects the amount of mileage in excess of the designed mechanical odometer limit of 99,999 miles or kilometers, ~~he~~ the seller shall include a statement to that effect; or

(iii) if the seller knows that the odometer reading differs from the number of miles or kilometers the vehicle has actually traveled and that the difference is greater than that caused by odometer calibration error, ~~he~~ the seller shall include a statement that the odometer reading is not the actual mileage and should not be relied upon.

(2) The purchaser shall acknowledge receipt of the disclosure statement by signing it and printing ~~his~~ the purchaser's name on the disclosure statement.

(3) The seller of the following types of motor vehicles need not disclose the odometer reading of the vehicle as required in subsection (1):

(a) a motor vehicle that is 10 years old or older;

(b) a vehicle that is not self-propelled;

(c) a new motor vehicle transferred between dealers or wholesalers prior to its first retail sale, unless ~~such~~ the vehicle has been used as a demonstrator;

(d) a vehicle having a gross weight rating of more than 16,000 pounds; or

(e) a vehicle sold directly by the manufacturer to an agency of the United States.

(4) A dealer or wholesaler licensed under ~~61-4-101~~ chapter 4 of this title shall create a record of the information required in subsection (1) and shall maintain and preserve that record for at least 5 years after the date of sale of the motor vehicle to which the information pertains."

Section 15. Section 61-3-301, MCA, is amended to read:

"**61-3-301. Registration -- license plate required -- display.** (1) Except as otherwise provided in this chapter, ~~no~~ a person may not operate a motor vehicle upon the public highways of Montana unless the vehicle is properly registered and has the proper number plates conspicuously displayed, one on the front and one on the rear of the vehicle, each securely fastened to prevent it from swinging and unobstructed from plain view, except that ~~trailers, semitrailers, quadricycles, motorcycles, and~~ vehicles authorized ~~in 61-4-102(6)~~ to display demonstrator plates under [section 7 or 23] may have ~~but~~ only one number plate conspicuously displayed on the rear. ~~No~~ A person may not display on a vehicle at the same time a number assigned to it under any motor vehicle law except as provided in this chapter. A junk vehicle, as defined in Title 75, chapter 10, part 5, being driven or towed to an auto wrecking graveyard for disposal is exempt from the provisions of this section.

(2) ~~No~~ A person may not purchase or display on a vehicle a license plate bearing the number assigned to any county as provided in 61-3-332 other than the county of ~~his~~ the person's permanent residence at the time of application for registration. However, the owner of any motor vehicle requiring a license plate on any motor vehicle used in the public transportation of persons or property may make application for the license in any county through which the motor vehicle passes in its regularly scheduled route, and the license plate issued bearing the number assigned to that county may be displayed on the motor vehicle in any other county of the state.

(3) It is unlawful to use license plates issued to one vehicle on any other vehicle, trailer, or semitrailer unless legally transferred as provided by statute, or to repaint old license plates to resemble current license plates.

(4) This section does not apply to a vehicle exempt from taxation under 15-6-215 or subject to taxation under 61-3-520.

(5) Any person violating these provisions is guilty of a misdemeanor and subject to the penalty prescribed in 61-3-601."

Section 16. Section 61-3-432, MCA, is amended to read:

"**61-3-432. Exemptions of vehicles not capable of operation on highways.** Track-type tractors, other track mounted machinery and equipment, road rollers, and other similar equipment and machinery

which cannot be self-propelled or towed upon the highways of this state and which must be transported by some type of hauling unit, are not subject to this chapter, ~~61-4-101 through 61-4-106~~ chapter 4, part 1, chapter 6, ~~part 2 of~~ chapter 10, part 2, or ~~part 4 of~~ chapter 12, part 4."

Section 17. Section 61-3-501, MCA, is amended to read:

"**61-3-501. When vehicle taxes and fees are due.** (1) Motor vehicle taxes, fees in lieu of tax, new car taxes, and fees must be paid on the date of registration or reregistration of the vehicle.

(2) (a) If the anniversary date for reregistration of a vehicle passes while the vehicle is owned and held for sale by a licensed new or used car dealer, motor vehicle taxes or fees in lieu of tax abate on the vehicle properly reported with the county treasurer until the vehicle is ~~sold~~ the subject of a retail sale. After the sale, the purchaser shall pay the pro rata balance of the taxes or fees in lieu of tax due and owing on the vehicle.

(b) For the purposes of this subsection "retail sale" does not include a transfer between any of the following:

(i) a licensed new motor vehicle or used motor vehicle dealer;

(ii) another licensed new motor vehicle or used motor vehicle dealer;

(iii) a licensed wholesaler; or

(iv) a licensed auto auction.

(3) In the event that a vehicle's registration period is changed under 61-3-315, all taxes or fees in lieu of tax and other fees due must be prorated and paid from the last day of the old period until the first day of the new period in which the vehicle is registered. The taxes or fees in lieu of tax and other fees must be paid from the first day of the new period for a minimum period of 1 year. When the change is to a later registration period, taxes and fees must be prorated and paid based on the same tax year as the original registration period. Thereafter, during the appropriate anniversary registration period, each vehicle must again be registered or reregistered and all taxes and fees must be paid for a 12-month period."

Section 18. Section 61-3-502, MCA, is amended to read:

"**61-3-502. Sales tax on new motor vehicles -- exemptions.** (1) In consideration of the right to

use the highways of the state, there is imposed a tax upon all sales of new motor vehicles, excluding trailers, semitrailers, and housetrailers, for which a license is sought and an original application for title is made. The tax must be paid by the purchaser when the purchaser applies for an original Montana license through the county treasurer. For purposes of this section, "new motor vehicle" means a new motor vehicle for which original registration is sought or a motor vehicle previously furnished without charge by a dealer to a school district for use in a state-approved traffic education program, whether or not ~~titled~~ the certificate of ownership is held by the dealer or the school district, and for which original registration is sought.

(2) Except as provided in subsections (4) and (5), the sales tax is:

(a) 1 1/2% of the f.o.b. factory list price or f.o.b. port-of-entry list price, during the first quarter of the year or for a registration period other than a calendar year or calendar quarter;

(b) 1 1/8% of the list price during the second quarter of the year;

(c) 3/4 of 1% during the third quarter of the year;

(d) 3/8 of 1% during the fourth quarter of the year.

(3) If the manufacturer or importer fails to furnish the f.o.b. factory list price or f.o.b. port-of-entry list price, the department may use published price lists.

(4) The new car sales tax on vehicles subject to the provisions of 61-3-313 through 61-3-316 is 1 1/2% of the f.o.b. factory list price or f.o.b. port-of-entry list price regardless of the month in which the new vehicle is purchased.

(5) The sales tax on new motor vehicles registered as part of a fleet under 61-3-318 is 3/4 of 1% of the f.o.b. factory list price or f.o.b. port-of-entry list price.

(6) The proceeds from this tax must be remitted to the state treasurer every 30 days. The state treasurer shall deposit $1 of the tax on each new motor vehicle in a special revenue account to be used by the department of commerce in carrying out its duties under Title 61, chapter 4, part 5, with the balance of the proceeds to be credited to the highway nonrestricted account of the state special revenue fund. The county treasurer shall retain 5% of the taxes collected to pay for the cost of administration.

(7) The new vehicle is not subject to any other assessment, fee in lieu of tax, or tax during the calendar year in which the original application for title is made.

(8) A new motor vehicle may not be registered or licensed unless the application for registration

is accompanied by a statement of origin that is furnished by the dealer selling the vehicle and that shows that the vehicle has not previously been registered or owned, except as otherwise provided in this section, by any person, firm, corporation, or association other than a new motor vehicle dealer holding a franchise or distribution agreement from a new car manufacturer, distributor, or importer.

(9) (a) Motor vehicles operating exclusively for transportation of persons for hire within the limits of incorporated cities or towns and within 15 miles from the limits are exempt from the provisions of subsection (1).

(b) Motor vehicles brought or driven into Montana by nonresident, migratory, bona fide agricultural workers who are temporarily employed in agricultural work in this state, when those motor vehicles are used exclusively for transportation of agricultural workers, are also exempt from the provisions of subsection (1).

(c) Vehicles lawfully displaying a licensed dealer's plate as provided in ~~61-4-103~~ 61-4-102 are exempt from the provisions of subsection (1):

(i) when moving to or from a dealer's place of business when unloaded or loaded with dealer's property only; and

(ii) in the case of vehicles having a gross loaded weight of less than 24,000 pounds, while being demonstrated in the course of the dealer's business.

(d) Motor vehicles owned or controlled by a special district, as defined in 18-8-202, are exempt from subsection (1).

(e) A vehicle registered under 61-3-456 is exempt from the provisions of subsection (1)."

Section 19. Section 61-3-508, MCA, is amended to read:

"**61-3-508. Junk vehicle disposal fee.** A special junk vehicle disposal fee ~~shall~~ must be assessed on each new application for a motor vehicle title and on each transfer of a motor vehicle title in the amount of $1.50 on passenger cars and trucks under 8,001 pounds GVW. An additional special junk vehicle disposal fee ~~shall~~ must be assessed in the amount of 50 cents on each passenger car and truck under 8,001 pounds GVW registered for licensing. The fees ~~shall~~ must be collected by the county treasurer. However, the following are exempt from payment of the fees:

(1) vehicles leased or owned by the state or by a county or municipality;

(2) vehicles used for transportation by nonresident, migratory workers temporarily employed in agricultural work in this state;

(3) vehicles displaying dealer's or wholesaler's ~~license~~ plates~~, as provided in 61-4-103,~~ while owned by a dealer or wholesaler; and

(4) housetrailers or equipment ~~which~~ that is not self-propelled or ~~which~~ that requires towing upon a highway of this state."

Section 20. Section 61-3-602, MCA, is amended to read:

"**61-3-602. Enforcement.** It is mandatory upon all police and peace officers of the state, of the counties of the state, and of towns, cities, and villages to carry out the provisions of this chapter and ~~61-4-101 through 61-4-105~~ chapter 4, part 1."

Section 21. Section 61-4-101, MCA, is amended to read:

"**61-4-101. ~~Application for dealer's~~ Dealer's license ~~or wholesaler's license~~ -- types of licenses and terms -- plates -- bonds -- zoning.** ~~(1) (a) A verified application for licensure as a dealer or wholesaler must be filed, by mail or otherwise, in the office of the department by each person, firm, corporation, or association that, for commission or profit, engages in:~~

~~(i) the business of buying, selling, exchanging, taking for consignment, or acting as a broker of new motor vehicles, recreational vehicles, used motor vehicles, trailers (except trailers having an unloaded weight of less than 500 pounds), semitrailers, mobile homes, or special mobile equipment as defined in 61-1-104; or~~

~~(ii) business as a wholesaler as defined in 61-1-319.~~

~~(b) A licensed real estate broker or agent lawfully buying, selling, exchanging, taking for consignment, or acting as a broker of mobile homes is exempt from licensure under this section.~~

~~(c) The sale of more than three motor vehicles or the offering for sale of more than three motor vehicles, if the motor vehicles are not titled in the seller's name, in any calendar year is prima facie evidence that a person is engaged in the business of dealing motor vehicles. Licensed wholesalers do not have the privilege of the use of dealer license plates as provided in subsection (2)(b) but are authorized to display and use demonstrator plates under the provisions of 61-4-102(2)(a)(ii).~~

~~(d) Each license application and all of the information contained in it must be verified by the department or an authorized representative of the department on a form to be furnished by the department for that purpose and must contain the information required. Each application must be accompanied by the license fee specified in 61-4-102. A dealer's or wholesaler's license must be renewed and paid for annually, and an application for relicensure must be filed not later than January 1 of each year. If an application for renewal of a license has been received by the department before the expiration of the license, the licensee may operate the business and display dealer or demonstrator plates under the expired license between January 1 and February 15 following expiration.~~

~~(2) To qualify for licensure and the issuance and use of "D", "UD", "RV", "DTR", or "MCD" plates as provided in this subsection, the applicant shall furnish the following information and qualify under the following provisions:~~

~~(a) To qualify as a new motor vehicle dealer and for the use of "D" plates, the applicant shall:~~

~~(i) state the name under which the business is to be conducted and the location of the premises (street address, city, county, and state) where records are kept, sales are made, and stock of motor vehicles is displayed;~~

~~(ii) state the name, address, date of birth, and social security number of all owners or persons having an interest in the business, provided that in the case of a corporation, the names and addresses of the president and secretary are sufficient;~~

~~(iii) identify other dealerships owned by the applicant, identify all persons in Montana or in another state having an interest in another dealership owned by the applicant, and disclose whether the applicant or other person with interest in a dealership owned by the applicant has been convicted of a felony;~~

~~(iv) certify that the applicant has acquired and shall maintain motor vehicle liability insurance, pursuant to 61-6-301, for any vehicle offered for demonstration or loan to a customer;~~

~~(v) state the name and make of all motor vehicles handled and the name and address of the manufacturer, importer, or distributor with whom the applicant has a written new motor vehicle franchise or sales agreement;~~

~~(vi) execute a certificate to the effect that the applicant has a permanent building for the display and sale of new motor vehicles at the location of the premises where sales are conducted;~~

~~(vii) execute a certificate to the effect that the applicant has a bona fide service department for~~

~~the repair, service, and maintenance of motor vehicles; and~~

~~(viii) execute a certificate to the effect that the applicant is a bona fide dealer in new motor vehicles and that the dealer is recognized by a manufacturer, importer, or distributor as a dealer in new motor vehicles.~~

~~(b) To qualify as a used motor vehicle dealer and for the use of "UD" plates; as a recreational vehicle dealer and for the use of "RV" plates; as a trailer, semitrailer, or special mobile equipment dealer and for the use of "DTR" plates; as a motorcycle or quadricycle dealer and for the use of "MCD" plates; or as a wholesaler and for the use of demonstrator plates, the applicant shall, in addition to the matters set forth in subsections (2)(a)(i) through (2)(a)(iv), provide:~~

~~(i) a statement that the:~~

~~(A) applicant has an established place of business consisting of one or more lots located within 200 feet of each other upon which motor vehicles may be displayed and a permanent nonresidential building on or within 1,000 feet of the lot or lots where records are kept and sales are made; or~~

~~(B) wholesaler applicant has an established place of business that includes a permanent nonresidential building or office where records are kept in order that those records may be inspected;~~

~~(ii) a certificate to the effect that the applicant is a bona fide dealer or wholesaler in used motor vehicles, recreational vehicles, trailers, semitrailers, special mobile equipment, motorcycles, or quadricycles. An applicant for a recreational vehicle dealer license shall also indicate on the same certificate that the person is recognized by a manufacturer, importer, or distributor as a dealer in recreational vehicles.~~

~~(c) If two or more vehicle dealers or wholesaler businesses share a location, all records, office facilities, and inventory, if applicable, must be physically segregated and clearly identified. Each applicant's established place of business may display a sign that indicates the firm name and that vehicles are offered for sale. The letters of the sign must be clearly visible and readable to the major avenue of traffic at a minimum distance of 150 feet.~~

~~(d) To qualify for a used motor vehicle dealer's or wholesaler's license, a person shall submit an annual application for that license and comply with the provisions of 61-4-102(5) in addition to fulfilling the requirements of subsection (2)(b).~~

~~(e) The provisions of subsection (2)(d) do not apply to an applicant who is licensed as a motor~~

~~vehicle wrecking facility under the provisions of Title 75, chapter 10, part 5.~~

(1) Except as provided in [section 7], a person may not engage in the business of buying, selling, exchanging, accepting on consignment, or acting as a broker of a new motor vehicle or used motor vehicle, a new or used recreational vehicle, trailer, motorcycle, quadricycle, or special mobile equipment for which a certificate of ownership has not been issued and that are not registered in the person's name, unless the person is the holder of a dealer's license issued by the department under this part.

(2) (a) The department is authorized to issue a dealer's license for one or more specified vehicle types to any person that it determines is qualified to hold a license under the provisions of this section. A dealer's license may be issued for, and restricted to, one or more of the following vehicle types:

(i) new motor vehicle;

(ii) used motor vehicle;

(iii) new recreational vehicle;

(iv) used recreational vehicle;

(v) trailer of any size, or special mobile equipment; or

(vi) motorcycle or quadricycle.

(b) For each type of dealer license authorized, the department shall design and issue dealer and demonstrator plates as provided in 61-4-102 and [section 23].

(c) With the exception of a licensed new motor vehicle dealer, a dealer licensed for a particular type of vehicle may sell, trade, or accept upon consignment only vehicles of the type for which the license is authorized, unless the dealer's license specifically refers to more than one vehicle type, such as a motorcycle or quadricycle license. A new motor vehicle dealer is authorized to sell, trade, or accept upon consignment new motor vehicles or used motor vehicles.

(d) Regardless of vehicle type, a dealer's license issued by the department has a term of 1 calendar year, commencing on or after January 1 in the year of issue and expiring on December 31 of the same year.

(3) (a) An applicant for a dealer's license shall submit a written application for a dealer's license to the department, specifying the type or types of dealer's license sought. The application must be signed by the applicant and contain a verification by the applicant, under penalty of law, that the information contained in the application is true and correct. Any information provided in the license application process

is subject to independent verification by the department or a duly authorized representative of the department.

(b) After examining a license application and conducting investigation necessary to verify the information contained in the application and if the department is satisfied that the applicant qualifies for the issuance of a license under the provisions of this chapter, the department may issue the license. The department may refuse, after examination and investigation, to issue a license to an applicant who is not qualified for licensure or whose prior financial or other activities or criminal record, as determined by the department:

(i) pose a threat to the effective regulation of dealers, wholesalers, or auto auctions;

(ii) pose a threat to the public interest of the state; or

(iii) create a danger of illegal or deceptive practices being used in the conduct of the proposed dealership, wholesaler, or auto auction.

(4) To be qualified for licensure as a dealer, an applicant shall provide to the department the following:

(a) the name under which the applicant intends to conduct business and the name, address, date of birth, and social security number of any person who possesses or will possess an ownership interest in the business for which the license is sought. If the applicant is a corporation, the personal information required in this subsection (4)(a) must be provided for each corporate officer and the person designated by the corporation to manage or oversee the dealership;

(b) for each person subject to the provisions of subsection (4)(a), whether the person has:

(i) an ownership interest in a vehicle dealership or a wholesaler business in Montana or another jurisdiction and if so, the name and address of each dealership or wholesaler; and

(ii) been found guilty of, or pleaded guilty to, a felony in this or any other jurisdiction and if so, provide a summary of the conduct resulting in the felony charge, including the dates of the conduct and any court proceedings pertaining to the conduct and the name and address of any court in which the matter was heard;

(c) the name, address, and telephone number of the insurance carrier from whom the applicant has acquired garage keepers liability insurance and the name, address, and telephone number of the local insurance agent for the carrier and the applicant's policy number. The insurance must cover any vehicle

bearing dealer or demonstrator license plates that is offered for demonstration or loan to, or otherwise operated by, a customer in the regular course of the applicant's business;

(d) the geographic location of the physical lot or lots upon which vehicles will be displayed for sale and a permanent nonresidential building will be maintained to store the actual physical or electronic records resulting from the purchase, sale, trade, or consignment of vehicles for which licensure is sought. An applicant may use more than one location to display vehicles for sale, provided the maximum distance between each display lot does not exceed 200 feet, and the distance between a display lot and the building in which vehicle sales records are stored does not exceed 1,000 feet;

(e) for each geographic location specified in the application, evidence of the applicant's compliance with applicable local land use planning, zoning, and business permitting requirements, if any. Evidence of compliance may be documented by means of a written verification of compliance signed by the authorized representative of the local land use planning or zoning board or the local business permitting agency;

(f) a diagram or plat showing the geographic location, lot dimensions, and building and sign placement for the applicant's proposed established place of business, along with two or more photographs of the geographic location, building premises, and sign, as prescribed by the department;

(g) a certification by the applicant that the applicant is a bona fide dealer in new motor vehicles, used motor vehicles, used recreational vehicles, trailers, motorcycles, quadricycles, or special mobile equipment;

(h) if the applicant is seeking a new motor vehicle dealer license:

(i) the name and address of the manufacturer, importer, or distributor with whom the applicant has a written new motor vehicle franchise or sales agreement and the name and make of all motor vehicles to be handled by the applicant;

(ii) the geographic location or locations, specified in writing, upon which the applicant will provide and maintain a permanent building to display and sell new motor vehicles and offer and maintain a bona fide service department for the repair, service, and maintenance of the motor vehicles; and

(iii) otherwise meet the requirements of part 2 of this chapter; and

(iv) if the applicant is applying for a new recreational vehicle dealer's license, certification that the person is recognized by a manufacturer, importer, or distributor as a dealer in new recreational vehicles.

(5) If an applicant for a new motor vehicle or used motor vehicle, new or used recreational vehicle, or trailer dealer's license wants to maintain more than one established place of business, the applicant shall file a separate license application for each proposed established place of business and otherwise qualify for licensure at each place separately.

(6) Each application under this section must be accompanied by an application fee of $5 and one or more of the following license fees based on the type of dealer's license being sought:

(a) $25 for a new motor vehicle dealer's license;

(b) $25 for a used motor vehicle dealer's license;

(c) $25 for a new or used recreational vehicle dealer's license; or

(d) $25 for a motorcycle or trailer dealer's license.

~~(3) (a)~~(7) The applicant for a dealer's ~~or wholesaler's~~ license shall also file with the application a bond of $25,000 for a license as a new motor vehicle dealer, a used motor vehicle dealer, a new or used recreational vehicle dealer, or a trailer dealer~~, or a wholesaler. However, applicants for a license as a trailer dealer or a trailer wholesaler shall file the $25,000 surety bond only if special mobile equipment, commercial trailers and semitrailers exceeding 6,000 pounds maximum gross loaded weight, mobile homes, or house trailers are sold. All other trailer dealer,~~ Applicants for a motorcycle ~~dealer, or wholesaler~~ dealer's license ~~applicants~~ shall file a bond in the sum of $10,000. All bonds must be conditioned that the applicant shall conduct the business in accordance with the requirements of the law. The bond may extend to any other type of dealer license issued to the applicant at the same ~~place of business~~ geographic location, provided that all types of licenses are indicated on the face of the bond. All bonds must ~~run to the state of Montana, must~~ be approved by the department, must be filed in its office, and must be renewed annually.

~~(b) A person who suffers loss or damage due to the unlawful conduct of a dealer or wholesaler licensed under this section shall obtain a judgment from a court of competent jurisdiction prior to collecting on the bond. The judgment must determine a specific loss or damage amount and conclude that the licensee's unlawful operation caused the loss or damage before payment on the bond is required.~~"

Section 22. Section 61-4-102, MCA, is amended to read:

"61-4-102. ~~Fees -- restrictions on licensees~~ Dealer's license numbers -- assignment, numbering,

and limitation of dealer plates -- restriction of use -- fees. (1) Upon the licensing of a dealer, the department shall assign to the dealer a distinctive serial license number as a dealer and furnish the dealer with one or more sets of numbered dealer plates in accordance with the provisions of this section.

(2) (a) Dealer plates designed by the department must be similar to the numbered plates furnished to owners of motor vehicles under 61-3-332, but they must bear:

(i) the license number assigned to the dealer;

(ii) an abbreviation for the vehicle type of the dealer license issued, as follows:

(A) the letter "D" for a new motor vehicle dealer;

(B) the letters "UD" for a used motor vehicle dealer; or

(C) the letters "RV" for a new or used recreational vehicle dealer; and

(iii) the actual number of sets of dealer plates issued to the dealer.

(b) Dealer plates may not be issued to a motorcycle or trailer dealer or a wholesaler.

(3) Dealer plates must contain the prefix of the county in which the dealer's established place of business is located, followed by the dealer license type abbreviation, the dealer license number, and the number of sets of dealer plates issued to that dealer. For example, new motor vehicle dealer number 4 in Lewis and Clark County would be numbered 5D-4, and if the dealer were issued three sets of dealer plates, they would be numbered consecutively as follows, 5D-4-1, 5D-4-2, and 5D-4-3.

(4) (a) ~~Upon making such application, the applicant shall pay to the department, in~~ In addition to the fees required ~~of dealers and wholesalers~~ under the provisions of ~~subsection (2)~~ 61-4-101 and [section 6], ~~a fee of $5. Upon receipt of the application, fee, and bond, as provided above, the department shall examine the application, and may, prior to issuing a license, make individual investigation of the truth of the statements contained in the application. If the department is satisfied that the applicant qualifies for the issuance of a license under the provisions of this chapter, the department may issue the license. The department may refuse, after investigation, to issue a license to an applicant as allowed by law.~~

~~(2) Registration or license fees shall be paid upon registration or reregistration of dealers in motor vehicles, recreational vehicles, or trailers as follows:~~

~~(a) (i) all dealers in motor vehicles and recreational vehicles, a~~ an applicant for a dealer license shall pay an annual fee of $25, ~~which shall entitle such dealer to one set of number plates, and $25 additional fee~~ for each ~~additional~~ set of ~~number~~ numbered dealer plates requested and issued.~~, subject~~

~~to the following limitations on the number of additional sets allowed a dealer:~~

(b) The number of dealer plates that may be issued to a dealer must be determined as follows:

(i) a dealer is entitled to one set of dealer plates upon the issuance of an original license or a renewed license;

(ii) an applicant qualified for a license renewal is entitled to additional sets of numbered plates based on the following formula:

(A) 5% of the first 100 vehicle sales for the previous year; plus

(B) 3% of the next 100 vehicle sales for the previous year; plus

(C) 2% of vehicle sales in excess of 200 for the previous year; and

(iii) a dealer is entitled to additional sets of dealer plates during a license term as the dealer's sales incrementally meet or exceed the requirements of the formula established in subsection (4)(b)(ii). However, the aggregate number of sets of dealer plates issued to a dealer under this subsection (4)(b)(iii) may not exceed the combined number allowed under subsections (4)(b)(i) and (4)(b)(ii).

~~(D) any additional sets upon a showing of good cause by the applicant dealer to the department.~~

~~(ii) in addition to the dealer plates allowed under subsection (2)(a)(i), a dealer who has purchased one or more sets of dealer plates or a licensed wholesaler is entitled to purchase demonstrator plates at a cost determined by the department to offset the cost of production. Demonstrator plates must be used in lieu of a dealer plate but only as set forth in subsection (6) and must be distinguished from dealer plates in a manner determined by the department. Wholesaler demonstrator plates must be distinguished from dealer demonstrator plates in a manner determined by the department.~~

~~(b) dealers in motorcycles, quadricycles, and trailers, including housetrailers, $45; and~~

~~(c) wholesalers in used motor vehicles, recreational vehicles, trailers (including semitrailers and special mobile equipment), and motorcycles (including quadricycles), $30.~~

~~(3) If a dealer or wholesaler is originally registered 6 months after the time of registration as set by law, the registration or license fee for the remainder of the year is one-half of the regular fee above given.~~

~~(4) A dealer or wholesaler in motor vehicles, recreational vehicles, or trailers who maintains more than one place of business or who maintains a branch establishment or establishments shall register and pay a registration or license fee for each place of business or establishment. A dealer may sell vehicles~~

~~only from his licensed place of business unless the dealer notifies the department 10 days in advance, on a form prescribed by the department, of the opening date and location of an off-premises sale. Except for recreational vehicle dealers, an off-premises sale must be conducted within the city limits of the city of the dealer's licensed location or upon an adjacent off-premises site that is approved by the department and that is within the county of the dealer's licensed location. The sale may not exceed 10 consecutive business days, and a licensed dealer may not conduct more than 10 off-premises sales during any 1 calendar year.~~

~~(5) A new applicant for a used motor vehicle dealer or wholesaler license shall pay $300 to the department in addition to any other sums required by this section or other provisions of the law. An applicant for a renewal of a used motor vehicle dealer or wholesaler license shall certify under oath that he has sold more than five used motor vehicles during the preceding calendar year or pay an additional $300 before he may be licensed.~~

~~(6) Demonstrator plates provided for in subsection (2)(a)(ii) may be used only as follows:~~

~~(a) New and used motor vehicle or recreational vehicle demonstrator plates may be used:~~

~~(i) to demonstrate, for no more than 72 hours, an authorized vehicle held for sale, when operated by an individual holding a valid operator's license;~~

~~(ii) on authorized vehicles owned by the firm when operated by an officer or bona fide full-time employee of the dealer or wholesaler and used to transport the dealer's or wholesaler's own tools, parts, and equipment;~~

~~(iii) on authorized vehicles being tested for repair;~~

~~(iv) on authorized vehicles being moved to or from a dealer's place of business for sale;~~

~~(v) on authorized vehicles being moved to or from service and repair facilities before sale;~~

~~(vi) on authorized vehicles being moved to or from exhibitions within the state, provided any such exhibition does not exceed a period of 20 days.~~

~~(b) Mobile home and trailer dealer demonstrator plates may be used:~~

~~(i) on units hauled to or from the place of business of the manufacturer and the place of business of the dealer or to and from places of business of the dealer;~~

~~(ii) on mobile homes hauled to a customer's location for setup after sale;~~

~~(iii) on travel trailers held for sale to demonstrate the towing capability of the vehicle provided that~~

~~a dated demonstration permit, valid for not more than 72 hours, is carried with the vehicle at all times;~~

~~(iv) on any motor vehicle owned by the dealer that is used only to move vehicles legally bearing mobile home and travel trailer dealer license plates of the dealer owning any such motor vehicle;~~

~~(v) on vehicles being moved to or from vehicle exhibitions within the state, provided any such exhibition does not exceed a period of 20 days.~~

(5) (a) A dealer is authorized to use and display dealer plates on a motor vehicle held for bona fide sale by the dealer and that is operated by or under the control of the dealer, the dealer's spouse, officers, or employees.

(b) For purposes of this subsection:

(i) the term "officers" includes only the persons listed on the manufacturer's franchise agreement or the importer's distribution agreement and the term "employees" means persons upon whom the dealer has paid social security taxes as a full-time employee; and

(ii) the display of a Monroney label or a buyer's guide label, as required by [section 5(2)], on a vehicle bearing dealer plates is prima facie evidence that the vehicle is offered for bona fide sale by the dealer.

(6) Dealer plates may not be used or displayed on vehicles used for hire, lease, or rental.

(7) (a) A dealer is accountable for each set of numbered dealer plates issued and shall file a quarterly report with the department certifying the disposition of each set of dealer plates assigned to the dealer and specifying the name, address, and occupation of the person primarily using each set of plates.

(b) A dealer who fails to submit an accountability report within 30 days of the end of the calendar quarter may be subject to the imposition of a civil penalty under 61-4-105.

(8) All numbered dealer plates expire on December 31 of the year of issue and are subject to renewal in accordance with the provisions of [section 6] and this section."

Section 23. Assignment of demonstrator plates. (1) A dealer or wholesaler may purchase demonstrator plates at a fee of $3 a plate. Demonstrator plates must be issued for each vehicle type for which a dealer license is required under 61-4-102. Demonstrator plates must be designed by the department in a manner that distinguishes demonstrator plates from dealer plates.

(2) (a) New and used motor vehicle or recreational vehicle demonstrator plates may be used:

(i) to demonstrate, for not more than 72 hours, a vehicle held for sale, when operated by an individual holding a valid operator's license;

(ii) on vehicles owned by the dealership when operated by an officer or bona fide full-time employee of the dealer or wholesaler and used to transport the dealer's or wholesaler's own tools, parts, and equipment;

(iii) on vehicles being tested for repair;

(iv) on vehicles being moved to or from a dealer's place of business for sale;

(v) on vehicles being moved to or from service and repair facilities before sale; and

(vi) on vehicles being moved to or from exhibitions within the state, provided the exhibition does not exceed a period of 20 days.

(b) Mobile home and trailer demonstrator plates may be used:

(i) on units being hauled to or from the place of business of the manufacturer and the place of business of the dealer or to and from places of business of the dealer;

(ii) on mobile homes being hauled to a customer's location for setup after sale;

(iii) on travel trailers held for sale to demonstrate the towing capability of the vehicle, provided that a dated demonstration permit, valid for not more than 72 hours, is carried with the vehicle at all times;

(iv) on any motor vehicle owned by the dealer that is used only to move vehicles legally bearing mobile home and travel trailer dealer license plates of the dealer owning the motor vehicle; and

(v) on units being moved to or from exhibitions within the state, provided the exhibition does not exceed a period of 20 days.

(c) A vehicle being operated in accordance with this subsection (2) need only display one demonstrator plate conspicuously on the rear of the vehicle.

Section 24. Section 61-4-104, MCA, is amended to read:

"**61-4-104. Record of purchase or sale.** A dealer or wholesaler licensed under 61-4-101 shall keep a book or record of the purchases, sales or exchanges, or receipts for the purpose of sale of used vehicles and a description of the vehicles, together with the name and address of the seller, of the purchaser, and of the alleged owner or other person from whom each vehicle was purchased or received or to whom it

was sold or delivered, as the case may be. The description in the case of motor vehicles must also include the vehicle identification number and engine number, if any, and must include a statement that a number has been obliterated, defaced, or changed if that has occurred. In the case of a trailer, semitrailer, or special mobile equipment, the record must include the manufacturer's number and other numbers or identification marks that appear on the trailer, semitrailer, or special mobile equipment. The dealer or wholesaler must also have a duly assigned certificate of ownership from the owner of the motor vehicle to the dealer or wholesaler from the time the motor vehicle is delivered to the dealer or wholesaler until it has been disposed of by the dealer or wholesaler. It is a violation of this part for a dealer or wholesaler to fail to take assignment of all certificates of ownership or manufacturer's certificates of origin for vehicles acquired by the licensee or to fail to assign the certificate of ownership or manufacturer's certificate of origin for vehicles sold. All records required to be kept in accordance with this section, in addition to the required retention of odometer disclosure information under 61-3-206(4), must be physically located and maintained within the building referred to in 61-4-101~~(2)(b)(i)~~. An authorized representative of the department, upon presentation of the representative's credentials, may inspect and have access to and copy any records required under this chapter."

Section 25. Section 61-4-105, MCA, is amended to read:

"**61-4-105. Criminal penalty -- civil penalty imposed by agency.** (1) Any person violating the provisions of 61-3-501, 61-4-101 ~~through~~, 61-4-102, 61-4-104, ~~or~~ 61-4-120, or [sections 5 through 8] is guilty of a misdemeanor and subject to a fine of not less than $250 and not more than $500. For the purposes of this section, every sale of a motor vehicle in violation of the provisions of 61-3-501, 61-4-101 ~~through~~, 61-4-102, 61-4-104, ~~or~~ 61-4-120, or [sections 5 through 8] is a separate offense.

(2) In addition to all other penalties created by this part, the department is authorized to take appropriate enforcement action on its own initiative. Any person violating the provisions of 61-3-501, 61-4-101 ~~through~~, 61-4-102, 61-4-104, ~~or~~ 61-4-120, or [sections 5 through 8] may be subject to administrative action, in accordance with the contested case procedures of Title 2, chapter 4, as follows:

(a) a civil penalty not to exceed $200 for each violation;

(b) suspension of the motor vehicle dealer, wholesaler, or auto auction license not to exceed 5 working days;

(c) revocation or denial of the motor vehicle dealer, wholesaler, or auto auction license; or

(d) any combination of subsections (2)(a) through (2)(c)."

Section 26. Section 61-4-107, MCA, is amended to read:

"**61-4-107. Cease and desist order.** (1) When the department has reasonable cause to believe, from information furnished to it or from an investigation made by it, that a person is engaged in any business regulated by this part without being licensed as required, it shall immediately issue and serve upon the person, by certified mail, a cease and desist order requiring ~~him~~ the person to cease and desist from further engaging in that business. If the person fails to comply with the order, the department shall file an action in the district court of Lewis and Clark County to restrain and enjoin the person from engaging in the business. The court shall proceed in the action as in other actions for injunctions.

(2) The sale of more than three motor vehicles or the offering for sale of more than three motor vehicles, if the certificates of ownership are not held in the offeror's name, in any calendar year is prima facie evidence that the offeror is engaged in the business of dealing motor vehicles and must be licensed under this chapter.

(3) When the department has reasonable cause to believe, from an investigation made by it or information furnished to it by a law enforcement officer, that a dealer or wholesaler has been improperly licensed, has used a dealer's license in a manner other than as authorized in this title, has provided a material misstatement of fact in an application for a license, is not qualified as a dealer or wholesaler under the requirements of this title, or has engaged in criminal conduct that renders the dealer or wholesaler unfit for licensure, the department may revoke the dealer's or wholesaler's license."

Section 27. Section 61-4-108, MCA, is amended to read:

"**61-4-108. Exemptions.** (1) This part does not require licensure of, or restrict or prohibit a financial institution, as defined in 32-6-103:

(a) in the selling of collateral repossessed on default of a loan made by the financial institution;

(b) in the conduct of a motor vehicle sales promotion in affiliation with one or more licensed dealers; or

(c) in the conduct of a motor vehicle sales promotion in affiliation with a person regularly engaged

in a bona fide vehicle rental business if the purpose of the sale is to dispose of used motor vehicles used in the rental business.

(2) This part does not require licensure of an auctioneer whose business consists primarily of the sale of personal property other than motor vehicles.

(3) This part does not require licensure of a licensed real estate broker or agent lawfully buying, selling, exchanging, taking on consignment, or acting as a broker of mobile homes."

Section 28. Section 61-4-120, MCA, is amended to read:

"**61-4-120. Application for auto auction license -- general regulations.** (1) A person, firm, association, or corporation that takes possession of a motor vehicle owned by another person through consignment, bailment, or any other arrangement for the purpose of selling the motor vehicle to the highest bidder when all buyers are licensed motor vehicle dealers, wholesalers, or wrecking facilities shall file by mail or otherwise in the office of the department a verified application for licensure as an auto auction. The application must be made in the following manner:

(a) Each application and all of the information contained in it must be verified by the department or an authorized representative of the department on a form to be furnished by the department for that purpose. The application must provide the following information:

(i) the name in which the business is to be conducted and the location of premises, including street address, city, county, and state, where records are kept, sales are made, and motor vehicle stock is displayed as an established place of business that displays a sign indicating the firm name and that vehicles are offered for sale. The letters on the sign must be clearly visible and readable to the major avenue of traffic at a minimum distance of 150 feet.

(ii) the name and address of all owners or persons having an interest in the business. In the case of a corporation, the names and addresses of the president and secretary are sufficient.

(iii) a statement that the applicant is authorized to auction used motor vehicles, recreational vehicles, trailers, semitrailers, special mobile equipment, motorcycles, and quadricycles under one license. A licensed auto auction may not auction a new motor vehicle except when authorized by a new motor vehicle manufacturer, importer, distributor, or representative ~~thereof~~, for the purpose of conducting a closed-factory fleet sale to dispose of new motor vehicles by the franchisor (manufacturer, distributor,

or importer) to franchisee purchasers when the purchasers are licensed new motor vehicle dealers purchasing new motor vehicle line-makes authorized by their respective franchise, sales, or distributor agreements. An auto auction licensed under the provisions of this section shall notify and update the department with current fleet sale agreements between the auto auction and franchisor. An auto auction may not conduct a factory fleet sale unless authorized or appointed by a franchisor licensed under part 2 of this chapter.

(b) Each application must be accompanied by a bond of $25,000 and must be conditioned that the applicant shall conduct business in accordance with the requirements of the law. All bonds must run to the state of Montana, must be approved by the department and filed in its office, and must be renewed annually. ~~A person who suffers loss or damage due to the unlawful conduct of an auto auction licensed under this section may proceed in the same manner as provided for licensed dealers and wholesalers in 61-4-101(3)(b).~~

(2) An auto auction's license must be renewed and paid for annually to the department, and an application for relicensure must be filed by January 1 of each year. The fee required for each first-time applicant is $500 and for subsequent renewal applications is $100 each year. Upon receipt of a properly completed application, fee, and bond, the department shall issue the auto auction license and assign an auto auction license number for each applicant in a manner determined by the department. Auto auctions dealing in motor vehicles may sell only to licensed dealers and wholesalers.

(3) Auto auctions that are licensed under this section and that hold a current license number may issue temporary permits, which may be displayed and used by a buyer to operate an unregistered vehicle purchased from the auto auction. The temporary permit is valid for a period of 72 hours from the time of purchase and may be used only for the purpose of driving or transporting a vehicle from the auction premises to the purchaser's established place of business or point of destination. Temporary permits must be on a form prescribed by the department and must contain the name, address, and license number of the purchaser, date of sale, name, address, license number, and authorized signature of the auto auction, and a description of the vehicle, including its serial number. The department shall collect a fee of $10 from the auto auction for each temporary permit, and the auto auction may charge a vehicle purchaser no more than $10 for the issuance of each permit to offset the cost of the permit. It is unlawful for the auto auction to issue more than one temporary permit per vehicle sale.

(4) A licensed auto auction may apply for and may be authorized by the department to purchase and use license plates of a type and amount approved by the department, upon payment of a fee to the department to offset the cost of production. Licensed auto auctions may use the license plates to transport inventory vehicles from a point of storage or a point of delivery in this state to the auto auction's place of business, for road testing authorized vehicles, or for moving vehicles for purposes of repairing, painting, upholstering, polishing, and related activities. One license plate is required to be conspicuously displayed on the rear of the vehicle. Auto auctions may appoint designated persons, partnerships, corporations, service stations, or repair garages to use the license plate only when conducting work for the auto auction involving repairing, painting, upholstering, polishing, or performing similar types of work upon a vehicle. Upon application for an auto auction license, the applicant, if requesting the license plates, shall submit a sworn affidavit on a form prescribed by the department, listing each authorized person designated by the auction to use the license plates. The auto auction is responsible for reporting any changes to the affidavit within 72 hours after the amendment has occurred. An auto auction licensed under the provisions of this section is liable for the proper use of the license plates, which may not be used for private purposes. The department may revoke an auto auction's 72-hour temporary permit and license plate privileges if an auction issues, authorizes the use of, or uses a temporary permit or the license plate in violation of the provisions of this section.

(5) (a) Each auto auction shall keep a book or record, in a form and manner subject to approval by the department, of the purchases, sales, or exchanges or the receipts for the purpose of sale of any motor vehicle, a properly completed copy of a temporary permit issued to a vehicle purchaser, the date of title transfer, and a description of the motor vehicle, together with the name and address of the seller, the purchaser, and the alleged owner or other person from whom the motor vehicle was purchased or received or to whom it was sold or delivered. The description in the case of a motor vehicle must include:

(i) the vehicle identification number and engine number, if any; and

(ii) a statement that a number has been obliterated, defaced, or changed, if it has.

(b) An auto auction licensed under this section shall validate the sale of a motor vehicle through its auction by stamping its name and license number upon the certificate of ownership at a location on the front or back of the certificate, at the margin in the assignment section as executed between the transferor and transferee. An auto auction's stamp must be legible and may not interfere with the

information recorded on the certificate between the transferor and transferee. If the certificate of ownership lacks adequate space for the auto auction to place its stamp, the auction may provide the transferee a copy of the auction invoice bearing the:

(i) name and license number of the auction, along with an indication of the vehicle year, make, model, and identification number;

(ii) name, address, and signature of the transferor;

(iii) name, license number, and signature of the transferee; and

(iv) date the vehicle was sold through the auction.

(c) The invoice must be attached to the certificate of ownership and must be presented to the department with any application for title.

(d) An auto auction shall retain, for 5 years, odometer disclosure information, including the name of the owner on the date the auto auction took possession of the motor vehicle, the name of the buyer, the vehicle identification number, and the odometer reading on the date the auto auction took possession of the motor vehicle. The odometer information may be retained in any way that is systematically retrievable and is not required to be maintained on any special disclosure form. The information may be part of the auction receipt or invoice or be maintained as a portion of a computer database or manual file. An auto auction that executes a transfer of ownership as an agent on behalf of a seller or buyer is liable for providing an odometer disclosure statement for the seller or an odometer disclosure acknowledgment for the buyer under the provisions of 61-3-206."

Section 29. Section 61-4-205, MCA, is amended to read:

"**61-4-205. Limitations on cancellation and termination.** (1) Notwithstanding the terms, provisions, or conditions of any agreement or franchise, a franchisor may not cancel, terminate, or refuse to continue a franchise unless the franchisor has cause for termination or noncontinuance.

(2) A franchisor may not enter into a franchise for the purpose of establishing an additional new motor vehicle dealership in any community in which the same line-make is then represented unless there is good cause for an additional new motor vehicle dealership under a franchise and that it is in the public interest.

(3) If a franchisor seeks to terminate or not continue a franchise or seeks to enter into a franchise

establishing an additional new motor vehicle dealership of the same line-make, the franchisor shall, not less than 60 days prior to the intended action, and the franchisee may, at any time, file a notice with the department of intention to terminate or not continue the franchise or to enter into a franchise for additional representation of the same line-make. A notice of intention to terminate or not continue a franchise is not required from a franchisor until the conclusion of any review proceeding of that intention offered to the franchisee under the franchise. This section does not apply to an intended termination or noncontinuance of a franchise that the franchisee elects voluntarily, pursuant to a plan established by a franchisor, to submit to binding arbitration.

(4) Upon receiving a notice of intention under the provisions of subsection (3), the department shall, within 5 days of receipt of a notice of intention, send by certified mail, with return receipt requested, a copy of the notice to the franchisor and to the franchisee whose franchise the franchisor seeks to establish, terminate, or not continue. If the notice states an intent to establish an additional new motor vehicle dealership, a copy of the notice must be sent within 5 days of receipt to all franchisees in the community who are then engaged in the business of offering to sell or selling the same line-make. Copies of notices must be addressed to the principal place of business of each recipient and to the statutory agent of each corporate recipient. The department may also give a copy of the franchisor's notice to any other parties whom the department may consider interested persons.

(5) In instances where the change in ownership has the effect of the sale of the franchise, the franchisor may not without good cause withhold its consent to the sale. Good cause relates only to the transferee's financial and managerial capabilities or to the inability of the transferee to comply with a state or federal law relating to new motor vehicle dealerships. The burden of establishing good cause is upon the franchisor.

(6) Notwithstanding the terms, provisions, or conditions of an agreement or franchise, in the event of the sale or transfer of ownership of the franchisee's dealership by sale or transfer of the business or by stock transfer to the dealer's or wholesaler's spouse, son, or daughter, the franchisor shall give effect to the sale or transfer of ownership in the franchise unless the transfer of the franchisee's new motor vehicle dealer's or wholesaler's license is denied or the new owner is unable to obtain a license under the laws of this state.

(7) If a franchisor enters into or attempts to enter into a franchise, whether upon termination or

refusal to continue another franchise or upon the establishment of an additional new motor vehicle dealership in a community where the same line-make is then represented, without first complying with the provisions of this part, a license under 61-4-101 ~~through 61-4-105~~ may not be issued to that franchisee or proposed franchisee to engage in the business of selling new motor vehicles manufactured or distributed by that franchisor."

Section 30. Section 61-10-214, MCA, is amended to read:

"**61-10-214. Exemptions.** (1) Motor vehicles operating exclusively for transportation of persons for hire within the limits of incorporated cities or towns and within 15 miles from the limits are exempt from this part.

(2) Motor vehicles brought or driven into Montana by a nonresident, migratory, bona fide agricultural worker temporarily employed in agricultural work in this state when those motor vehicles are used exclusively for transportation of agricultural workers are exempt from this part.

(3) Vehicles lawfully displaying a ~~licensed~~ dealer's or wholesaler's plate as provided in ~~61-4-103~~ 61-4-102 and [section 7] are exempt from this part for a period not to exceed 7 days when moving to or from a dealer's or wholesaler's place of business when unloaded or loaded with dealer's or wholesaler's property only or while being demonstrated in the course of the dealer's or wholesaler's business. Vehicles being demonstrated may not be leased, rented, or operated for compensation by the licensed dealer or wholesaler.

(4) Vehicles exempt from property tax under 15-6-201(1)(a), (1)(c) through (1)(e), (1)(g), (1)(o), (1)(q), and (1)(v) are exempt from this part. The department of transportation may require documentation of tax-exempt status from the department of revenue before granting this exemption."

Section 31. Repealer. Section 61-4-103, MCA, is repealed.

Section 32. Codification instruction. (1) [Sections 1 through 3] are intended to be codified as an integral part of Title 61, chapter 1, and the provisions of Title 61, chapter 1, apply to [sections 1 through 3].

(2) [Sections 4 through 8 and section 23] are intended to be codified as an integral part of Title

12

61, chapter 4, part 1, and the provisions of Title 61, chapter 4, part 1, apply to [sections 4 through 8 and section 23].

Section 33. Effective dates. (1) [Sections 4, 32, and 34 and this section] are effective on passage and approval.

(2) [Sections 1 through 3 and 5 through 31] are effective October 1, 1999.

Section 34. Applicability. (1) Except as provided in subsection (2), [sections 1 through 3 and 5 through 30] apply to license terms beginning after December 31, 1999.

(2) [Sections 6(4)(a) and (4)(d)] do not apply to used motor vehicle dealers licensed by the department of justice on or before December 31, 1999.

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